

HOUSE BILL No. 1338

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-41; IC 35-44.1-1-4; IC 36-1-3-8.7; IC 36-7.

Synopsis: Wind farm siting and conflicts of interest. Establishes minimum setback requirements for the siting of wind power devices after June 30, 2018. Amends the statute that establishes the criminal offense of conflict of interest by a public servant to provide that a public servant who serves a unit in which a proposed wind farm development is being considered commits an offense under the statute if either of the following apply: (1) The public servant knowingly: (A) has or will have a pecuniary interest in; or (B) derives or will derive a profit from; a contract or purchase related to the proposed wind farm development. (2) The wind farm developer does, or offers to do, certain specified acts related to the proposed wind farm development and involving the public servant's role as a public official. Provides that a public servant does not commit an offense under the statute if the public servant makes a written disclosure that describes the nature of the conflict the public servant has with respect to the proposed wind farm development. Provides that after June 30, 2018, a unit may not authorize, or establish requirements for, the installation or siting of wind power devices in the unit unless: (1) the voters of the unit have approved the installation or siting of wind power devices in the unit through a local public question; and (2) with respect to the siting of wind power devices in the unit, the unit requires at least the minimum setback requirement standards established in the bill. Provides that a regulation that: (1) is adopted or amended by a unit after June 30, 2018; and (2) authorizes, or establishes requirements for, the installation or siting of wind power devices in the unit; does not take effect unless these conditions are met. Sets forth procedures for
(Continued next page)

Effective: July 1, 2018.

Judy, Ober

January 11, 2018, read first time and referred to Committee on Utilities, Energy and Telecommunications.



Digest Continued

conducting a local public question concerning the installation or siting of wind power devices in a unit. Requires a wind farm developer that seeks to install or locate one or more wind power devices in a unit to make certain disclosures regarding conflicts of interest involving elected or unelected officials with respect to the proposed project. Provides that a wind farm developer shall make the required disclosures as necessary throughout all phases of the proposed project and continuing for one year after the date on which all wind power devices included in the project are fully operational. Prescribes the form and manner in which the disclosures must be made. Confers authority upon the attorney general to investigate and adjudicate complaints alleging violations of the disclosure requirements. Provides that upon determining that a wind farm developer has violated the requirements, the attorney general may impose a civil penalty of not more than: (1) \$50,000 for the first violation; and (2) \$100,000 for any subsequent violation.



Introduced

Second Regular Session of the 120th General Assembly (2018)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2017 Regular Session of the General Assembly.

HOUSE BILL No. 1338

A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1-41 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2018]:

4 **Chapter 41. Wind Power Devices**

5 **Sec. 1. This chapter applies to a person that seeks to install or**
6 **locate one (1) or more wind power devices in a unit after June 30,**
7 **2018.**

8 **Sec. 2. As used in this chapter, "dwelling" means any building,**
9 **structure, or part of a building or structure that is occupied as, or**
10 **is designed or intended for occupancy as, a residency by one (1) or**
11 **more families or individuals.**

12 **Sec. 3. As used in this chapter, "unit" has the meaning set forth**
13 **in IC 36-1-2-23.**

14 **Sec. 4. As used in this chapter, "wind power device" means a**
15 **device, including a windmill or a wind turbine, that is designed to**



1 use the kinetic energy of moving air to provide mechanical energy
2 or to produce electricity.

3 **Sec. 5. Subject to IC 36-1-3-8.7 and IC 36-7-5.3, this chapter**
4 **does not affect a unit's planning and zoning powers under IC 36-7**
5 **with respect to the installation or siting of one (1) or more wind**
6 **power devices within the unit.**

7 **Sec. 6. Except as otherwise allowed by IC 36-7-4-1109, a person**
8 **may not install or locate a wind power device on property unless**
9 **the base of the wind power device is located at least one and**
10 **one-half (1 1/2) miles from the following, as applicable:**

11 (1) The center line of any runway located on a:

12 (A) public use airport;

13 (B) private use airport; or

14 (C) municipal airport.

15 (2) The nearest corner of a building containing any of the
16 following:

17 (A) A nonpublic school (as defined in IC 20-18-2-12).

18 (B) A public or private:

19 (i) day care;

20 (ii) preschool;

21 (iii) elementary school (as defined in IC 20-18-2-4);

22 (iv) high school (as defined in IC 20-18-2-7); or

23 (v) college or university.

24 (C) A hospital.

25 **Sec. 7. (a) Except as provided in subsection (b) and as otherwise**
26 **allowed by IC 36-7-4-1109, a person may not install or locate a**
27 **wind power device on property unless the base of the wind power**
28 **device is located at least two thousand two hundred (2,200) feet**
29 **from the nearest corner of any dwelling.**

30 (b) This section does not apply with respect to any dwelling
31 located on the premises of an individual who seeks to install a wind
32 power device on the individual's premises for the purpose of
33 generating electricity to meet or offset all or part of the need for
34 electricity on the premises, whether through participation in a net
35 metering program or otherwise.

36 **Sec. 8. A person, other than a person described in section 7(b)**
37 **of this chapter, that seeks to install or locate a wind power device**
38 **in a unit is subject to IC 36-7-5.4.**

39 SECTION 2. IC 35-44.1-1-4, AS AMENDED BY P.L.158-2013,
40 SECTION 499, IS AMENDED TO READ AS FOLLOWS
41 [EFFECTIVE JULY 1, 2018]: Sec. 4. (a) The following definitions
42 apply throughout this section:



- 1 (1) "Dependent" means any of the following:
 2 (A) The spouse of a public servant.
 3 (B) A child, stepchild, or adoptee (as defined in IC 31-9-2-2)
 4 of a public servant who is:
 5 (i) unemancipated; and
 6 (ii) less than eighteen (18) years of age.
 7 (C) An individual more than one-half (1/2) of whose support
 8 is provided during a year by the public servant.
 9 (2) "Governmental entity served by the public servant" means the
 10 immediate governmental entity being served by a public servant.
 11 (3) "Pecuniary interest" means an interest in a contract or
 12 purchase, **including a lease agreement or an agreement**
 13 **concerning an easement**, if the contract or purchase will result
 14 or is intended to result in an ascertainable increase in the income
 15 or net worth of:
 16 (A) the public servant; or
 17 (B) a dependent of the public servant who:
 18 (i) is under the direct or indirect administrative control of
 19 the public servant; or
 20 (ii) receives a contract or purchase order that is reviewed,
 21 approved, or directly or indirectly administered by the public
 22 servant.
 23 (4) **"Regulation" refers to any ordinance or regulation,**
 24 **including any:**
 25 (A) **zoning or land use ordinance or regulation; or**
 26 (B) **general or specific planning ordinance or regulation;**
 27 **adopted by a unit.**
 28 (5) "Unit" has the meaning set forth in IC 36-1-2-23.
 29 (6) "Wind farm developer" means a person that seeks to
 30 install or locate, under a regulation of a unit or otherwise, one
 31 (1) or more wind power devices in the unit. The term does not
 32 include an individual who seeks to install a wind power device
 33 on the individual's premises for the purpose of generating
 34 electricity to meet or offset all or part of the need for
 35 electricity on the premises, whether through participation in
 36 a net metering program or otherwise.
 37 (7) "Wind power device" means a device, including a
 38 windmill or a wind turbine, that is designed to use the kinetic
 39 energy of moving air to provide mechanical energy or to
 40 produce electricity.
 41 (b) A public servant who knowingly or intentionally:
 42 (1) has a pecuniary interest in; or



1 (2) derives a profit from;
 2 a contract or purchase, **including a lease agreement or an agreement**
 3 **concerning an easement**, connected with an action by the
 4 governmental entity served by the public servant commits conflict of
 5 interest, a Level 6 felony.

6 (c) It is not an offense under this section if any of the following
 7 apply:

8 (1) The public servant or the public servant's dependent receives
 9 compensation through salary or an employment contract for:

10 (A) services provided as a public servant; or

11 (B) expenses incurred by the public servant as provided by
 12 law.

13 (2) The public servant's interest in the contract or purchase,
 14 **including a lease agreement or an agreement concerning an**
 15 **easement**, and all other contracts and purchases made by the
 16 governmental entity during the twelve (12) months before the date
 17 of the contract or purchase was two hundred fifty dollars (\$250)
 18 or less.

19 (3) The contract or purchase involves utility services from a utility
 20 whose rate structure is regulated by the state or federal
 21 government.

22 (4) The public servant:

23 (A) acts in only an advisory capacity for a state supported
 24 college or university; and

25 (B) does not have authority to act on behalf of the college or
 26 university in a matter involving a contract or purchase.

27 (5) A public servant under the jurisdiction of the state ethics
 28 commission (as provided in IC 4-2-6-2.5) obtains from the state
 29 ethics commission, following full and truthful disclosure, written
 30 approval that the public servant will not or does not have a
 31 conflict of interest in connection with the contract or purchase
 32 under IC 4-2-6 and this section. The approval required under this
 33 subdivision must be:

34 (A) granted to the public servant before action is taken in
 35 connection with the contract or purchase by the governmental
 36 entity served; or

37 (B) sought by the public servant as soon as possible after the
 38 contract is executed or the purchase is made and the public
 39 servant becomes aware of the facts that give rise to a question
 40 of conflict of interest.

41 (6) A public servant makes a disclosure that meets the
 42 requirements of subsection (d), or (e), or (g) and is:



- 1 (A) not a member or on the staff of the governing body
 2 empowered to contract or purchase on behalf of the
 3 governmental entity, and functions and performs duties for the
 4 governmental entity unrelated to the contract or purchase;
 5 (B) appointed by an elected public servant;
 6 (C) employed by the governing body of a school corporation
 7 and the contract or purchase involves the employment of a
 8 dependent or the payment of fees to a dependent;
 9 (D) elected; or
 10 (E) a member of, or a person appointed by, the board of
 11 trustees of a state supported college or university.
- 12 (7) The public servant is a member of the governing board of, or
 13 is a physician employed or contracted by, a hospital organized or
 14 operated under IC 16-22-1 through IC 16-22-5 or IC 16-23-1.
- 15 (d) A disclosure must:
- 16 (1) be in writing;
- 17 (2) describe the contract or purchase, **including a lease**
 18 **agreement or an agreement concerning an easement**, to be
 19 made by the governmental entity;
- 20 (3) describe the pecuniary interest that the public servant has in
 21 the contract or purchase;
- 22 (4) be affirmed under penalty of perjury;
- 23 (5) be submitted to the governmental entity and be accepted by
 24 the governmental entity in a public meeting of the governmental
 25 entity before final action on the contract or purchase, **including**
 26 **a lease agreement or an agreement concerning an easement**;
- 27 (6) be filed within fifteen (15) days after final action on the
 28 contract or purchase with:
- 29 (A) the state board of accounts; and
 30 (B) if the governmental entity is a governmental entity other
 31 than the state or a state supported college or university, the
 32 clerk of the circuit court in the county where the governmental
 33 entity takes final action on the contract or purchase; and
- 34 (7) contain, if the public servant is appointed, the written approval
 35 of the elected public servant (if any) or the board of trustees of a
 36 state supported college or university (if any) that appointed the
 37 public servant.
- 38 (e) This subsection applies only to a person who is a member of, or
 39 a person appointed by, the board of trustees of a state supported college
 40 or university. A person to whom this subsection applies complies with
 41 the disclosure requirements of this chapter with respect to the person's
 42 pecuniary interest in a particular type of contract or purchase which is



1 made on a regular basis from a particular vendor if the individual files
 2 with the state board of accounts and the board of trustees a statement
 3 of pecuniary interest in that particular type of contract or purchase
 4 made with that particular vendor. The statement required by this
 5 subsection must be made on an annual basis.

6 **(f) This subsection applies to a public servant who serves a unit**
 7 **in which a proposed wind farm development is being considered by**
 8 **the unit, whether under a regulation of the unit or otherwise.**
 9 **Subject to subsection (g), a public servant to whom this subsection**
 10 **applies commits an offense under this section if any of the following**
 11 **applies:**

12 **(1) The public servant knowingly:**

13 **(A) has or will have a pecuniary interest in; or**

14 **(B) derives or will derive a profit from;**

15 **a contract or purchase, including a lease agreement or an**
 16 **agreement concerning an easement, related to the proposed**
 17 **wind farm development.**

18 **(2) The wind farm developer does, or offers to do, any of the**
 19 **following:**

20 **(A) Pays or gives anything of value to the public servant in**
 21 **connection with the unit's exercise of planning or zoning**
 22 **authority as to the proposed installation or siting of one (1)**
 23 **or more wind power devices in the unit, unless the public**
 24 **servant agrees, in writing, to be recused from the public**
 25 **servant's official duties in connection with the unit's**
 26 **exercise of planning or zoning authority as to the proposed**
 27 **wind power devices.**

28 **(B) Pays or gives anything of value to the public servant**
 29 **that is contingent upon the public servant's appearance**
 30 **before, or action as a member of, the unit with respect to**
 31 **the proposed wind farm development.**

32 **(C) Enters into an agreement, other than a publicly**
 33 **available agreement to which the unit and the wind farm**
 34 **developer are both parties, concerning the proposed wind**
 35 **farm development that requires the public servant's**
 36 **support or cooperation.**

37 **(D) Solicits, uses, or receives confidential information that:**
 38 **(i) concerns the proposed wind farm development; and**
 39 **(ii) is acquired by the public servant in the course of the**
 40 **public servant's duties.**

41 **(g) A public servant to whom subsection (f) applies does not**
 42 **commit an offense under this section if the public servant makes a**



1 disclosure that:

- 2 (1) is in writing;
- 3 (2) describes the nature of the conflict the public servant has
- 4 under subsection (f);
- 5 (3) is affirmed under penalty of perjury;
- 6 (4) is submitted to the unit and accepted by the unit in a
- 7 public meeting of the unit before final action on the matter
- 8 constituting the conflict; and
- 9 (5) is filed with the following not later than fifteen (15) days
- 10 after final action on the matter constituting the conflict:

11 (A) The state board of accounts.

12 (B) The clerk of the circuit court in the county:

13 (i) in which all or part of the wind farm development will

14 be located; and

15 (ii) that is or includes the unit served by the public

16 servant.

17 SECTION 3. IC 36-1-3-8.7 IS ADDED TO THE INDIANA CODE

18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

19 1, 2018]: Sec. 8.7. (a) As used in this section, "regulation" refers to

20 any ordinance or regulation, including any:

21 (1) zoning or land use ordinance or regulation; or

22 (2) general or specific planning ordinance or regulation;

23 adopted by a unit.

24 (b) As used in this section, "wind power device" means a device,

25 including a windmill or a wind turbine, that is designed to use the

26 kinetic energy of moving air to provide mechanical energy or to

27 produce electricity.

28 (c) Except as provided in subsection (e), after June 30, 2018, a

29 unit may not authorize, or establish requirements for, the

30 installation or siting of one (1) or more wind power devices in the

31 unit unless:

32 (1) the voters of the unit have approved the installation or

33 siting of wind power devices in the unit through a local public

34 question as set forth in IC 36-7-5.3; and

35 (2) with respect to the siting of wind power devices in the unit,

36 the unit requires at least the minimum distance standards set

37 forth in IC 8-1-41-6 and IC 8-1-41-7.

38 (d) Except as provided in subsection (e), a regulation that is

39 adopted by a unit after June 30, 2018, and that authorizes, or

40 establishes requirements for, the installation or siting of one (1) or

41 more wind power devices in the unit does not take effect unless:

42 (1) the voters of the unit have approved the installation or



1 siting of wind power devices in the unit through a local public
2 question as set forth in IC 36-7-5.3; and

3 (2) any requirements set forth in the regulation for the siting
4 of wind power devices in the unit require at least the
5 minimum distance standards set forth in IC 8-1-41-6 and
6 IC 8-1-41-7.

7 This subsection applies to a regulation that is adopted by a unit
8 before July 1, 2018, and amended by the unit after June 30, 2018,
9 to authorize, or establish requirements for, the installation or siting
10 of one (1) or more wind power devices in the unit.

11 (e) Subsections (c)(1) and (d)(1) do not apply with respect to the
12 installation or siting of a wind power device by an individual on the
13 individual's premises for the purpose of generating electricity to
14 meet or offset all or part of the need for electricity on the premises,
15 whether through participation in a net metering program or
16 otherwise.

17 SECTION 4. IC 36-7-5.3 IS ADDED TO THE INDIANA CODE
18 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2018]:

20 **Chapter 5.3. Siting of Wind Power Devices**

21 **Sec. 1. (a) This chapter applies to the following:**

22 (1) The exercising by any unit of zoning, land use, planning, or
23 permitting authority as authorized by this article, or by any
24 other law, with respect to the installation or siting of wind
25 power devices within the unit after June 30, 2018.

26 (2) A proposal for the installation or siting of one (1) or more
27 wind power devices in a unit that is considered by the unit,
28 whether under a regulation of the unit or otherwise, after
29 June 30, 2018.

30 (b) This chapter does not apply to the installation or siting of a
31 wind power device by an individual on the individual's premises
32 for the purpose of generating electricity to meet or offset all or part
33 of the need for electricity on the premises, whether through
34 participation in a net metering program or otherwise.

35 **Sec. 2. As used in this chapter, "regulation" refers to any**
36 **ordinance or regulation, including any:**

37 (1) zoning or land use ordinance or regulation; or

38 (2) general or specific planning ordinance or regulation;

39 **adopted by a unit.**

40 **Sec. 3. As used in this chapter, "wind power device" means a**
41 **device, including a windmill or a wind turbine, that is designed to**
42 **use the kinetic energy of moving air to provide mechanical energy**



1 or to produce electricity.

2 **Sec. 4.** A regulation that is adopted by a unit after June 30, 2018,
3 and that authorizes, or establishes requirements for, the
4 installation or siting of one (1) or more wind power devices in the
5 unit does not take effect unless the installation or siting of wind
6 power devices in the unit is approved by voters of the unit in a local
7 public question on the ballot of the next primary or general
8 election. This section applies to a regulation that is adopted by a
9 unit before July 1, 2018, and amended by the unit after June 30,
10 2018, to authorize, or establish requirements for, the installation or
11 siting of one (1) or more wind power devices in the unit.

12 **Sec. 5.** A local public question under this chapter shall be placed
13 on the ballot in substantially the following form:

14 "Shall wind power devices be permitted in _____ (insert
15 description of the proposed location of wind power devices
16 within the unit) in _____ (insert name of unit)?"

17 **Sec. 6.** IC 3, except where inconsistent with this chapter, applies
18 to a local public question placed on the ballot under this chapter.
19 A local public question under this chapter must be certified in
20 accordance with IC 3-10-9-3 and shall be placed on the ballot in
21 accordance with IC 3-10-9.

22 **Sec. 7.** The circuit court clerk of a county holding an election
23 under this chapter shall certify the results determined under
24 IC 3-12-4-9.

25 **Sec. 8. (a)** If a majority of the voters of a unit who vote on a
26 local public question under this chapter vote in favor of the local
27 public question, the regulation or amended regulation is effective
28 on the later of the following:

29 (1) The date the vote is determined to be final.

30 (2) The effective date specified in the regulation.

31 (b) If a majority of the voters of the unit who vote on the local
32 public question do not vote in favor of installing or siting wind
33 power devices under this chapter, a second local public question
34 under this chapter may not be held in the unit for at least two (2)
35 years. If the voters of the unit vote to reject the installation or
36 siting of wind power devices a second time, a third or subsequent
37 local public question under this chapter may not be held in the unit
38 until the general election held during the fifth year following the
39 year that the previous local public question was placed on the
40 ballot.

41 **Sec. 9.** This chapter does not affect the enforcement of the siting
42 requirements for wind power devices set forth in IC 8-1-41.



1 SECTION 5. IC 36-7-5.4 IS ADDED TO THE INDIANA CODE
 2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2018]:

4 **Chapter 5.4. Supervision of Wind Farm Development**

5 **Sec. 1. This chapter applies to a wind farm developer that seeks**
 6 **to install or locate, under a regulation of a unit or otherwise, one**
 7 **(1) or more wind power devices in the unit after June 30, 2018.**

8 **Sec. 2. As used in this chapter, "regulation" refers to any**
 9 **ordinance or regulation, including any:**

- 10 (1) zoning or land use ordinance or regulation; or
 11 (2) general or specific planning ordinance or regulation;
 12 adopted by a unit.

13 **Sec. 3. (a) As used in this chapter, "relative", with respect to an**
 14 **individual, means any of the following:**

- 15 (1) A spouse.
 16 (2) A parent or stepparent.
 17 (3) A child or stepchild
 18 (4) A brother, sister, stepbrother, or stepsister.
 19 (5) A niece or nephew.
 20 (6) An aunt or uncle.
 21 (7) A daughter-in-law or son-in-law.

22 (b) For purposes of this section, an adopted child of an
 23 individual is treated as a natural child of the individual.

24 (c) For purposes of this section, the terms "brother" and
 25 "sister" include a brother or sister by the half blood.

26 **Sec. 4. As used in this chapter, "wind farm developer" means a**
 27 **person that seeks to install or locate, under a regulation of a unit**
 28 **or otherwise, one (1) or more wind power devices in the unit. The**
 29 **term does not include an individual who seeks to install a wind**
 30 **power device on the individual's premises for the purpose of**
 31 **generating electricity to meet or offset all or part of the need for**
 32 **electricity on the premises, whether through participation in a net**
 33 **metering program or otherwise.**

34 **Sec. 5. As used in this chapter, "wind power device" means a**
 35 **device, including a windmill or a wind turbine, that is designed to**
 36 **use the kinetic energy of moving air to provide mechanical energy**
 37 **or to produce electricity.**

38 **Sec. 6. A wind farm developer that seeks to install or locate one**
 39 **(1) or more wind power devices in a unit shall make the disclosures**
 40 **required under section 7 of this chapter, in the manner prescribed**
 41 **by section 8 of this chapter, as the disclosures become necessary**
 42 **throughout all phases of the proposed installation or siting,**



1 including during activities relating to:

- 2 (1) preliminary scoping and engineering studies;
 3 (2) the siting or location of the proposed wind power devices;
 4 (3) governmental approval processes; and
 5 (4) the installation of the proposed wind power devices.

6 A wind farm developer shall update a disclosure made under this
 7 chapter if any information included in that disclosure changes
 8 during the course of the project, or as necessitated by any proposed
 9 expansion of the project. A wind farm developer's duties and
 10 obligations under this chapter terminate one (1) year after the date
 11 of project completion. Project completion occurs when all wind
 12 power devices included in the project are fully operational.

13 **Sec. 7.** A wind farm developer shall immediately disclose, in the
 14 manner prescribed by section 8 of this chapter, the following, as
 15 each arises during any phase of a proposed project to install or
 16 locate one (1) or more wind power devices in a unit:

17 (1) Any financial interest of an elected or unelected official of
 18 the unit, or of any relative of the official, in the proposed
 19 installation or siting of a wind power device in the unit. The
 20 wind farm developer shall disclose:

21 (A) the name of the elected or unelected official and, if
 22 applicable, the name of the official's relative and the
 23 relationship between the official and the relative; and

24 (B) the nature, scope, and extent of the financial interest.

25 (2) Any easement or lease between an elected or unelected
 26 official of the unit and the wind farm developer, or between
 27 any relative of the official and the wind farm developer,
 28 relating to the proposed installation or siting of a wind power
 29 device in the unit. The wind farm developer shall file for
 30 recording in the office of the recorder for the county in which
 31 the property is located:

32 (A) an abstract of the easement or lease agreement;

33 (B) a memorandum of the easement or lease agreement; or

34 (C) the easement or lease agreement in its entirety.

35 (3) Any agreement between an elected or unelected official of
 36 the unit, or between any relative of the official, and the wind
 37 farm developer. The wind farm developer shall disclose:

38 (A) the full names and addresses of the parties to the
 39 agreement, including the full name and address of the
 40 elected or unelected official and, if applicable, the name of
 41 the relative of the official and the relationship between the
 42 official and the relative;



1 (B) a description of the property subject to the agreement;
2 and

3 (C) the essential terms of the agreement, including the
4 rights conveyed and the actual annual monetary
5 consideration, or a good faith estimate of the projected
6 annual monetary consideration, involved in the agreement.

7 **Sec. 8. (a)** A disclosure required under section 7 of this chapter
8 shall be made as follows:

9 (1) The disclosure shall be submitted in writing for public
10 inspection to the clerk of the unit served by the elected or
11 unelected official concerning whom the disclosure is made.

12 (2) Not later than ten (10) days after the disclosure is
13 submitted to the clerk under subdivision (1), notice of the
14 disclosure shall be published in the manner provided in
15 IC 5-3-1 in a newspaper of general circulation in the county
16 that is or includes the unit served by the elected or unelected
17 official concerning whom the disclosure is made.

18 (b) A wind farm developer shall maintain and update on the
19 wind farm developer's Internet web site, if any, a listing of all
20 disclosures made under this chapter throughout all phases of a
21 project involving the proposed installation or siting of one (1) or
22 more wind power devices in a unit. The listing must include the
23 following information for each disclosure listed:

24 (1) A brief description of the nature of the disclosure.

25 (2) The name of the elected or unelected official and, if
26 applicable, the name of the official's relative and the
27 relationship between the official and the relative, concerning
28 whom the disclosure was made.

29 (3) The date the disclosure was submitted under subsection
30 (a)(1) for public inspection to the clerk of the unit served by
31 the elected or unelected official concerning whom the
32 disclosure was made.

33 A wind farm developer's duties to maintain and update the listing
34 required by this subsection terminate one (1) year after project
35 completion. Project completion occurs when all wind power
36 devices included in the project are fully operational.

37 **Sec. 9. (a)** A wind farm developer shall, upon discovering a
38 violation of this chapter:

39 (1) immediately make or amend any disclosures necessary to
40 comply with this chapter; and

41 (2) promptly disclose the violation to the attorney general and
42 fully cooperate with any resulting investigation by the



- 1 **attorney general.**
- 2 **(b) The attorney general shall do the following to enforce this**
- 3 **chapter:**
- 4 **(1) Receive complaints concerning a wind developer's alleged**
- 5 **violation of this chapter.**
- 6 **(2) Provide to the wind developer:**
- 7 **(A) notice of a complaint received under subdivision (1);**
- 8 **and**
- 9 **(B) a reasonable opportunity to submit to the attorney**
- 10 **general information relevant to the complaint.**
- 11 **(3) Make a written determination, based on a reasonable**
- 12 **investigation, including any information provided by the wind**
- 13 **farm developer, as to whether a preponderance of the**
- 14 **evidence establishes that the wind farm developer has violated**
- 15 **this chapter.**
- 16 **(c) Subject to subsection (d), upon a determination by the**
- 17 **attorney general under subsection (b)(3) that a wind farm**
- 18 **developer has violated this chapter, the attorney general may**
- 19 **impose a civil penalty of not more than:**
- 20 **(1) fifty thousand dollars (\$50,000) for the first violation**
- 21 **under this chapter; and**
- 22 **(2) one hundred thousand dollars (\$100,000) for any**
- 23 **subsequent violation under this chapter.**
- 24 **(d) A wind farm developer may challenge in court the attorney**
- 25 **general's determination of a violation of this chapter, along with**
- 26 **any civil penalty imposed by the attorney general under subsection**
- 27 **(c), on the grounds that the determination is not supported by a**
- 28 **preponderance of the evidence. The wind farm developer shall pay**
- 29 **any assessed civil penalty to the attorney general pending the**
- 30 **resolution of the court challenge. If the attorney general's**
- 31 **determination is overturned on judicial review, the civil penalty,**
- 32 **including interest, shall be returned to the wind farm developer.**

