

1 ENGROSSED SENATE
2 BILL NO. 1576

By: Schulz and Murdock of the
Senate

3 and

4 Ortega of the House
5

6 An Act relating to the Corporation Commission;
7 amending Section 2, Chapter 92, O.S.L. 2015, as
8 amended by Section 2, Chapter 45, O.S.L. 2017 and
9 Section 3, Chapter 92, O.S.L. 2015, as amended by
10 Section 1, Chapter 45, O.S.L. 2017 (17 O.S. Supp.
11 2017, Sections 160.20 and 160.21), which relate to
12 setback requirements and notification of intent to
13 build a facility; prohibiting the construction of
14 wind facilities in certain circumstances; providing
15 exception to prohibition; requiring certain filings;
16 requiring Corporation Commission to promulgate rules;
17 updating references; requiring certain notification;
18 and declaring an emergency.

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

16 SECTION 1. AMENDATORY Section 2, Chapter 92, O.S.L.
17 2015, as amended by Section 2, Chapter 45, O.S.L. 2017 (17 O.S.
18 Supp. 2017, Section 160.20), is amended to read as follows:

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

22 1. One and one-half (1 1/2) nautical miles from the center line
23 of any runway located on:
24

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

3 b. an airport owned by a municipality;

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

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

7 B. Attestation of compliance with the setback requirements in
8 this section shall be included in any reports required by the
9 Corporation Commission. Disputes arising under this section shall
10 fall under the exclusive jurisdiction of the district courts.

11 C. After the effective date of this act, construction or
12 operation of a proposed wind energy facility or proposed wind energy
13 facility expansion shall not encroach upon or otherwise have a
14 significant adverse impact on the mission, training or operations of
15 any military installation or branch of military as determined by the
16 Military Aviation and Installation Assurance Siting Clearinghouse
17 and the Federal Aviation Administration. Areas of impact include
18 but are not limited to military training routes, drop zones,
19 approaches to runways and bombing ranges. No wind energy facility
20 may be constructed or expanded unless an active Determination of No
21 Hazard from the Federal Aviation Administration or an approved
22 mitigation plan is obtained from the Military Aviation and
23 Installation Assurance Siting Clearinghouse.

1 1. The Determination of No Hazard or mitigation plan shall be
2 filed with the Corporation Commission.

3 2. The requirements established by this subsection shall not
4 prohibit a wind energy facility construction or wind energy facility
5 expansion if those facilities or facility expansions obtain a
6 written Determination of No Hazard or mitigation plan on or before
7 the effective date of this act.

8 3. The Corporation Commission shall promulgate rules and
9 regulations for the implementation of the provisions of this
10 section.

11 SECTION 2. AMENDATORY Section 3, Chapter 92, O.S.L.
12 2015, as amended by Section 1, Chapter 45, O.S.L. 2017 (17 O.S.
13 Supp. 2017, Section 160.21), is amended to read as follows:

14 Section 160.21. A. The owner of a wind energy facility shall
15 submit notification of intent to build a facility to the Corporation
16 Commission within six (6) months of the initial filing pertaining to
17 commencement of construction with the Federal Aviation
18 Administration (FAA) of an FAA Form 7460-1 (Notice of Proposed
19 Construction or Alteration) or any subsequent form required by the
20 FAA for evaluating the impact a proposed wind energy facility will
21 have on air commerce safety and the preservation of navigable
22 airspace. The Corporation Commission shall prescribe the form and
23 submittal requirements of the notification; provided, the
24 information required on the notification form shall include at least

1 the same information required on the FAA form. The owner of the
2 wind energy facility shall ~~submit~~ send copies of the notification
3 with the board of county commissioners of every county in which all
4 or a portion of the wind energy facility is to be located within
5 twenty-four (24) hours of filing with the Corporation Commission.
6 If all or a portion of the wind energy facility is to be located
7 within the incorporated area of a municipality, copies of the
8 notification shall also be ~~submitted~~ sent to the governing body of
9 the municipality within twenty-four (24) hours of filing with the
10 Commission.

11 B. Within thirty (30) days of submitting the notification to
12 the Corporation Commission, as provided for in subsection A of this
13 section, the owner of the wind energy facility shall cause a copy of
14 the notification to be submitted to the Oklahoma Strategic Military
15 Planning Commission. The Oklahoma Strategic Military Planning
16 Commission shall notify local base commanders upon receipt of the
17 notification. The Oklahoma Strategic Military Planning Commission
18 shall submit a letter to the Military Aviation and Installation
19 Assurance Siting Clearinghouse outlining potential areas of impact,
20 as provided in Section 160.20 of this title, within thirty (30) days
21 of receipt of the notification. The letter from the Oklahoma
22 Strategic Military Planning Commission shall be filed with the
23 Corporation Commission.

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1 C. Within six (6) months of submitting the notification with
2 the Commission as provided for in subsection A of this section, the
3 owner of the wind energy facility shall cause a copy of the
4 notification to be published in a newspaper of general circulation
5 in the county or counties in which all or a portion of the wind
6 energy facility is to be located. Proof of publication shall be
7 submitted to the Commission.

8 ~~C.~~ D. Within six (6) months of submitting the notification with
9 the Commission as provided in subsection A of this section, the
10 owner of the wind energy facility shall cause a copy of the
11 notification to be sent, by certified mail, to:

12 1. Any operator, as reflected in the records of the Corporation
13 Commission, who is conducting oil and gas operations upon all or any
14 part of the surface estate as to which the wind energy developer
15 intends the construction of the wind energy facility;

16 2. Any operator, as reflected in the records of the
17 Corporation Commission, of an unspaced unit, or a unit created by
18 order of the Corporation Commission, who is conducting oil and gas
19 operations for the unit where all or any part of the unit area is
20 within the geographical boundaries of the surface estate as to which
21 the wind energy developer intends the construction of the wind
22 energy facility; and

23 3. As to tracts of land not described in paragraphs 1 and 2 of
24 this subsection on which the wind energy developer intends to

1 construct a wind energy facility, all lessees of oil and gas leases
2 covering the mineral estate underlying any part of the tracts of
3 land that are filed of record with county clerk in the county where
4 the tracts are located and whose primary term has not expired.

5 If the wind energy developer makes a search with reasonable
6 diligence, and the whereabouts of a party entitled to any notice
7 described in this subsection cannot be ascertained or such notice
8 cannot be delivered, then an affidavit attesting to such diligent
9 search for the parties shall be placed in the records of the county
10 clerk where the surface estate is actually located.

11 ~~D.~~ E. Within sixty (60) days of publishing the notification in
12 a newspaper as provided for in subsection B of this section, the
13 owner of the wind energy facility shall hold a public meeting.
14 Notice of the public meeting shall be published in a newspaper of
15 general circulation and submitted to the board of county
16 commissioners in the county or counties in which all or a portion of
17 the wind energy facility is to be located. The notice shall contain
18 the place, date and time of the public meeting. Proof of
19 publication of the notice shall be submitted to the Commission. The
20 public meeting shall be held in one of the counties in which all or
21 a portion of the wind energy facility is to be located.

22 ~~E.~~ F. With regard to the surface estate upon which the owner of
23 a wind energy facility intends to construct a wind energy facility,
24 at least sixty (60) days before entering upon the surface estate for

1 the purposes of commencement of construction of the wind energy
2 facility, the owner shall provide written notice, by certified mail,
3 of its intent to construct the wind energy facility to:

4 1. Any operator, as reflected in the records of the Corporation
5 Commission, who is conducting oil and gas operations upon all or any
6 part of the surface estate as to which the wind energy developer
7 intends the construction of the wind energy facility;

8 2. Any operator, as reflected in the records of the Corporation
9 Commission, of an unspaced unit, or a unit created by order of the
10 Corporation Commission, who is conducting oil and gas operations for
11 the unit where all or any part of the unit area is within the
12 geographical boundaries of the surface estate as to which the wind
13 energy developer intends the construction of the wind energy
14 facility; and

15 3. As to tracts of land not described in paragraphs 1 and 2 of
16 this subsection on which the wind energy developer intends to
17 construct a wind energy facility, all lessees of oil and gas leases
18 covering the mineral estate underlying any part of the tracts of
19 land that are filed of record with county clerk in the county where
20 the tracts are located and whose primary term has not expired.

21 The notice shall contain a map or plat of the proposed location,
22 with sufficient specificity of all of the various elements of the
23 wind energy facility to be located on the governmental section which
24 includes all or any part of the tracts of land described in

1 paragraphs 1, 2 and 3 of this subsection and the approximate date
2 that the owner of the wind energy facility proposes to commence
3 construction. If the wind energy developer makes a search with
4 reasonable diligence, and the whereabouts of a party entitled to any
5 notice described in this subsection cannot be ascertained or such
6 notice cannot be delivered, then an affidavit attesting to such
7 diligent search for the parties shall be placed in the records of
8 the county clerk where the surface estate is actually located.
9 Within thirty (30) days of receiving said notice, any operator, as
10 described in paragraphs 1, 2 and 3 of this subsection shall
11 reciprocate, in writing by certified mail, certain site, operational
12 and infrastructure information, with sufficient specificity, to be
13 shared with the owner of the wind energy facility to assist both
14 with the safe construction and operation pertaining to the surface
15 estate. This information should include ALTA surveys of existing
16 subsurface and surface improvements on the property, if any, as well
17 as other technical specifications for existing improvements such as
18 pipe size, material, capacity and depth.

19 ~~F.~~ G. The owner of a wind energy facility shall not commence
20 construction on the facility until the notification and public
21 meeting requirements of this section have been met. If an owner of
22 a wind energy facility fails to submit the information ~~with the~~
23 ~~Commission~~ as required in this section, the owner shall be subject
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1 to an administrative penalty from the Corporation Commission not to
2 exceed One Thousand Five Hundred Dollars (\$1,500.00) per day.

3 SECTION 3. 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.

7 Passed the Senate the 14th day of March, 2018.

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9 _____
10 Presiding Officer of the Senate

11 Passed the House of Representatives the ____ day of _____,
12 2018.

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14 _____
15 Presiding Officer of the House
16 of Representatives

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