

State of South Dakota

NINETY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2018

850Z0003

HOUSE BILL NO. 1234

Introduced by: Representative Gosch and Senator Cronin

1 FOR AN ACT ENTITLED, An Act to provide for certain requirements prior to construction of
2 wind energy facilities.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 49-41B-35 be amended to read:

5 49-41B-35. To implement the provisions of this chapter regarding facilities, the commission
6 shall promulgate rules pursuant to chapter 1-26. ~~Rules may be adopted by the commission to:~~

- 7 (1) ~~To establish~~ Establish the information requirements and procedures that every utility
8 must follow when filing plans with the commission regarding its proposed and
9 existing facilities;
- 10 (2) ~~To establish~~ Establish procedures for utilities to follow when filing an application for
11 a permit to construct a facility, and the information required to be included in the
12 application; ~~and~~
- 13 (3) ~~To require~~ Require bonds, guarantees, insurance, or other requirements to provide
14 funding for the decommissioning and removal of a wind energy facility with a
15 combined megawatt capability of the facility's turbines of one hundred megawatts or



1 more of electricity, and for the restoration and reversion of the land on which the
2 facility is located to its previous use;

3 (4) For a wind energy facility with a combined megawatt capability of the facility's
4 turbines of less than one hundred megawatts located in a county that requires proof
5 of funding for decommissioning and removal of the facility, require proof that the
6 facility has complied with the county's requirements.

7 Section 2. That § 49-41B-2 be amended to read:

8 49-41B-2. Terms as used in this chapter mean:

9 (1) "AC/DC conversion facility," an asynchronous AC to DC to AC tie that is directly
10 connected to a transmission facility or a facility that connects an AC transmission
11 facility with a DC transmission facility or vice versa;

12 (2) "Associated facilities," facilities which include aqueducts, diversion dams,
13 transmission substations, storage ponds, reservoirs, or cooling ponds;

14 (3) "Carbon dioxide," a fluid that consists of more than ninety percent carbon dioxide
15 molecules compressed in a supercritical state;

16 (4) "Commission," the Public Utilities Commission;

17 (5) "Construction," any clearing of land, excavation, or other action that would affect the
18 environment of the site for each land or rights of way upon or over which a facility
19 may be constructed or modified, but not including activities incident to preliminary
20 engineering or environmental studies. ~~This~~ The term includes modifications to
21 facilities as defined in § 49-41B-2.2;

22 (6) "Energy conversion facility," any new facility, or facility expansion, designed for or
23 capable of generation of one hundred megawatts or more of electricity, but does not
24 include any wind energy ~~facilities~~ facility;

- 1 (7) "Facility," any energy conversion facility, AC/DC conversion facility, transmission
2 facility, ~~or~~ wind energy facility, and any associated ~~facilities~~ facility;
- 3 (8) "Permit," the permit issued by the commission under this chapter required for the
4 construction and operation of a facility;
- 5 (9) "Person," an individual, partnership, limited liability company, joint venture, private
6 or public corporation, association, firm, public service company, cooperative,
7 political subdivision, municipal corporation, government agency, public utility
8 district, or any other public or private entity, however organized;
- 9 (10) "Siting area," that area within ten miles in any direction of a proposed energy
10 conversion facility, AC/DC conversion facility, or which is determined by the
11 commission to be affected by a proposed energy conversion facility;
- 12 (11) "Trans-state transmission facility," an electric transmission line and its associated
13 facilities which originates outside the State of South Dakota, crosses this state and
14 terminates outside the State of South Dakota; and which transmission line and
15 associated facilities delivers electric power and energy of twenty-five percent or less
16 of the design capacity of such line and facilities for use in the State of South Dakota;
- 17 (12) "Utility," any person engaged in and controlling the generation or transmission of
18 electric energy and gas or liquid transmission facilities as defined by § 49-41B-2.1;
- 19 (13) "Wind energy facility," a new facility, or facility expansion, consisting of a
20 commonly managed integrated system of towers, wind turbine generators with
21 blades, power collection systems, and electric interconnection systems, that converts
22 wind movement into electricity and that is designed for or capable of generation of
23 one hundred megawatts or more of electricity. A wind energy facility expansion
24 includes the addition of new wind turbines, designed for or capable of generating

1 twenty-five megawatts or more of electricity, which are to be managed in common
2 and integrated with existing turbines ~~and the combined megawatt capability of the~~
3 ~~existing and new turbines is one hundred megawatts or more of electricity.~~ The
4 number of megawatts generated by a wind energy facility is determined by adding the
5 nameplate power generation capability of each wind turbine.