

SENATE FILE NO. SF0058

Landowner rights in wind energy development.

Sponsored by: Senator(s) Anderson and Representative(s)  
Teeters

A BILL

for

1 AN ACT relating to industrial siting for wind energy  
2 facilities; requiring the identification of specified  
3 landowners; giving specified landowners the right to notice  
4 and other participation rights; requiring the disclosure of  
5 specified industrial siting information; expanding the  
6 persons entitled to be parties to the industrial siting  
7 process; and providing for an effective date.

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9 *Be It Enacted by the Legislature of the State of Wyoming:*

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11 **Section 1.** W.S. 35-12-102(a) by creating a new  
12 paragraph (xv), 35-12-107(b) by creating new paragraph  
13 (xv), (c)(i), (d)(ii) and (g)(ii), 35-12-109(a) by creating  
14 new paragraph (xxii), 35-12-110(a)(i), (f)(ii) and by  
15 creating new subsection (g), 35-12-111(a)(iii) and  
16 35-12-113(a)(intro) are amended to read:

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**35-12-102. Definitions.**

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(a) As used in this chapter:

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(xv) "Affected landowner" means any person holding record title to land on which any portion of a commercial facility generating electricity from wind is proposed to be constructed and including any portion of any collector system located on those same lands. For purposes of this chapter, an affected landowner may be represented by any designated person.

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**35-12-107. Request for waiver of permit application; form.**

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(b) A request for a waiver shall be filed with the division, in a form as prescribed by council rules and regulations, and shall contain the following information:

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(xv) For proposed facilities meeting the requirements of W.S. 35-12-102(a)(vii)(E) or (F), a list of all affected landowners with an address at which each

1 affected landowner can be given the notices required by  
2 this act.

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4 (c) Not more than seven (7) days following receipt of  
5 a request for a waiver, the director shall:

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7 (i) Serve notice of the request upon the  
8 governing bodies of local governments which will be  
9 primarily affected by the proposed facility and, for  
10 proposed facilities meeting the requirements of W.S.  
11 35-12-102(a)(vii)(E) or (F), upon affected landowners;

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13 (d) Not more than fourteen (14) days following  
14 receipt of a request, the director shall:

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16 (ii) Notify the applicant and local governments  
17 of the meeting and, for proposed facilities meeting the  
18 requirements of W.S. 35-12-102(a)(vii)(E) or (F), notify  
19 affected landowners;

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21 (g) Not more than fifty (50) days following receipt  
22 of a request, the director shall:

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1           (ii) Notify the applicant and local governments  
2 of the hearing and, for proposed facilities meeting the  
3 requirements of W.S. 35-12-102(a)(vii)(E) or (F), notify  
4 affected landowners;

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6           **35-12-109. Application for permit; form; fee;**  
7 **financial accounting.**

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9           (a) An application for a permit shall be filed with  
10 the division, in a form as prescribed by council rules and  
11 regulations, and shall contain the following information:

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13           (xxii) For proposed facilities meeting the  
14 requirements of W.S. 35-12-102(a)(vii)(E) or (F), a list of  
15 all affected landowners with an address at which each  
16 affected landowner can be given the notices required by  
17 this act.

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19           **35-12-110. Service of notice of application;**  
20 **information and recommendations; application deficiencies;**  
21 **procedure; jurisdiction; hearing.**

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23           (a) Not more than ten (10) days following receipt of  
24 an application for a permit, the director shall:

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(i) Serve an electronic or physical copy of the application upon the governing bodies of local government which will be primarily affected by the proposed facility together with notice of the applicable provisions of W.S. 35-12-111 and, for proposed facilities meeting the requirements of W.S. 35-12-102(a)(vii)(E) or (F), serve a copy of the application with notice of the applicable provisions of W.S. 35-12-111 upon affected landowners;

(f) Not more than ninety (90) days after receipt of an application for a permit, the director shall:

(ii) Notify the applicant and local governments of the hearing and, for proposed facilities meeting the requirements of W.S. 35-12-102(a)(vii)(E) or (F), notify affected landowners;

(g) For proposed facilities meeting the requirements of W.S. 35-12-102(a)(vii)(E) or (F):

(i) The division shall request information and recommendations from affected landowners relative to the

1 impact of the proposed facility as it applies to each  
2 affected landowner's lands and interests;

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4 (ii) Not less than twenty-five (25) days prior  
5 to any scheduled hearing on the application, the director  
6 shall provide to all affected landowners a copy of all  
7 information received from agencies providing information  
8 under subsections (b) and (c) of this section; and

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10 (iii) Agencies providing opinions and  
11 recommendations under subsections (b) and (c) of this  
12 section shall receive comments from affected landowners and  
13 shall provide a summary of all affected landowner comments  
14 with other information submitted. If comments are received  
15 after the agency's other information is submitted, the  
16 comments shall be forwarded when received to the division.

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18 **35-12-111. Parties to permit proceeding; waiver by**  
19 **failure to participate.**

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21 (a) The parties to a permit proceeding include:

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23 (iii) Any person residing in a local government  
24 entitled to receive a copy of the application under W.S.

1 35-12-110(a)(i) including any person holding record title  
2 to lands directly affected by construction of the facility  
3 and any nonprofit organization with a Wyoming chapter,  
4 concerned in whole or in part to promote conservation or  
5 natural beauty, to protect the environment, personal health  
6 or other biological values, to preserve historical sites,  
7 to promote consumer interests, to represent commercial,  
8 agricultural and industrial groups, or to promote the  
9 orderly development of the areas in which the facility is  
10 to be located. In order to be a party the person or  
11 organization must file with the office a notice of intent  
12 to be a party not less than twenty (20) days before the  
13 date set for the hearing.

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15 **35-12-113. Decision of council; findings necessary**  
16 **for permit conditions imposed; service of decision on**  
17 **parties; waste management surcharge.**

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19 (a) Within forty-five (45) days from the date of  
20 completion of the hearing the council shall make complete  
21 findings, issue an opinion and render a decision upon the  
22 record, either granting or denying the application as  
23 filed, or granting it upon terms, conditions or  
24 modifications of the construction, operation or maintenance

1 of the facility as the council deems appropriate. The  
2 council shall not consider the imposition of conditions  
3 which address impacts within the area of jurisdiction of  
4 any other regulatory agency in this state as described in  
5 the information provided in W.S. 35-12-110(b), unless the  
6 other regulatory agency requests that conditions be  
7 imposed. In considering the imposition of conditions  
8 requested by other agencies upon private lands, the council  
9 shall consider in the same manner and to the same extent  
10 any objections raised in oral or written testimony by an  
11 affected landowner. The council may consider direct or  
12 cumulative impacts not within the area of jurisdiction of  
13 another regulatory agency in this state. The council shall  
14 grant a permit either as proposed or as modified by the  
15 council if it finds and determines that:

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17 **Section 2.** This act is effective July 1, 2011.

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(END)