

1 **SENATE FLOOR VERSION**

2 February 14, 2019

3 SENATE BILL NO. 964

By: Dahm

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6 An Act relating to Corporation Commission; amending
7 Section 3, Chapter 92, O.S.L. 2015, as last amended
8 by Section 2, Chapter 179, O.S.L. 2018 (17 O.S. Supp.
9 2018, Section 160.21), which relates to notification
of intent to build a wind facility; modifying
10 timeline for certain required notice; updating
11 statutory language; and providing an effective date.

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

13 SECTION 1. AMENDATORY Section 3, Chapter 92, O.S.L.
14 2015, as last amended by Section 2, Chapter 179, O.S.L. 2018 (17
15 O.S. Supp. 2018, Section 160.21), is amended to read as follows:

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

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

12 B. Within ~~thirty (30)~~ ninety (90) days of submitting the
13 notification to the Corporation Commission, as provided for in
14 subsection A of this section, the owner of the wind energy facility
15 shall cause a copy of the notification to be submitted to the
16 Oklahoma Strategic Military Planning Commission. The Oklahoma
17 Strategic Military Planning Commission shall notify local base
18 commanders upon receipt of the notification. The Oklahoma Strategic
19 Military Planning Commission shall submit a letter to the Military
20 Aviation and Installation Assurance Siting Clearinghouse outlining
21 potential areas of impact, as provided in Section 160.20 of this
22 title, within ~~thirty (30)~~ ninety (90) days of receipt of the
23 notification. The letter from the Oklahoma Strategic Military
24

1 Planning Commission shall be submitted to the Corporation
2 Commission.

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

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

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

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

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

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

13 E. Within ~~sixty (60)~~ ninety (90) days of publishing the
14 notification in a newspaper as provided for in subsection C of this
15 section, the owner of the wind energy facility shall hold a public
16 meeting. Notice of the public meeting shall be published in a
17 newspaper of general circulation and submitted to the board of
18 county commissioners in the county or counties in which all or a
19 portion of the wind energy facility is to be located. The notice
20 shall contain the place, date and time of the public meeting. Proof
21 of publication of the notice shall be submitted to the Commission.
22 The public meeting shall be held in one of the counties in which all
23 or a portion of the wind energy facility is to be located.

1 F. With regard to the surface estate upon which the owner of a
2 wind energy facility intends to construct a wind energy facility, at
3 least ~~sixty (60)~~ ninety (90) days before entering upon the surface
4 estate for the purposes of commencement of construction of the wind
5 energy facility, the owner shall provide written notice, by
6 certified mail, of its intent to construct the wind energy facility
7 to:

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

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

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

1 The notice shall contain a map or plat of the proposed location,
2 with sufficient specificity of all of the various elements of the
3 wind energy facility to be located on the governmental section which
4 includes all or any part of the tracts of land described in
5 paragraphs 1, 2 and 3 of this subsection and the approximate date
6 that the owner of the wind energy facility proposes to commence
7 construction. If the wind energy developer makes a search with
8 reasonable diligence, and the whereabouts of a party entitled to any
9 notice described in this subsection cannot be ascertained or such
10 notice cannot be delivered, then an affidavit attesting to such
11 diligent search for the parties shall be placed in the records of
12 the county clerk where the surface estate is actually located.
13 Within ~~thirty (30)~~ ninety (90) days of receiving ~~said~~ the notice,
14 any operator, as described in paragraphs 1, 2 and 3 of this
15 subsection shall reciprocate, in writing by certified mail, certain
16 site, operational and infrastructure information, with sufficient
17 specificity, to be shared with the owner of the wind energy facility
18 to assist both with the safe construction and operation pertaining
19 to the surface estate. This information should include ALTA surveys
20 of existing subsurface and surface improvements on the property, if
21 any, as well as other technical specifications for existing
22 improvements such as pipe size, material, capacity and depth.

23 G. The owner of a wind energy facility shall not commence
24 construction on the facility until the notification and public

1 meeting requirements of this section have been met. If an owner of
2 a wind energy facility fails to submit the information as required
3 in this section, the owner shall be subject to an administrative
4 penalty from the Corporation Commission not to exceed One Thousand
5 Five Hundred Dollars (\$1,500.00) per day.

6 SECTION 2. This act shall become effective November 1, 2019.

7 COMMITTEE REPORT BY: COMMITTEE ON ENERGY
8 February 14, 2019 - DO PASS
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