

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 SENATE BILL 767

By: Hicks

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6 AS INTRODUCED

7 An Act relating to the Oklahoma Wind Energy  
8 Development Act; amending 17 O.S. 2021, Section  
9 160.21, as amended by Section 2, Chapter 310, O.S.L.  
10 2019, which relates to notification of intent to  
11 build a facility; clarifying notice to be provided;  
12 updating statutory language; and providing an  
13 effective date.

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

15 SECTION 1. AMENDATORY 17 O.S. 2021, Section 160.21, as  
16 amended by Section 2, Chapter 310, O.S.L. 2019, is amended to read  
17 as follows:

18 Section 160.21. A. The owner of a wind energy facility shall  
19 submit notification of intent to build a facility to the Corporation  
20 Commission within six (6) months of the initial filing with the  
21 Federal Aviation Administration (FAA) of a FAA 7460-1 form. The  
22 Corporation Commission shall prescribe the form and submittal  
23 requirements of the notification; provided, the information required  
24 on the notification form shall include at least the same information  
25 required on the FAA form and a map of the project boundary. The

1 owner of a wind energy facility shall submit to the Oklahoma  
2 Aeronautics Commission copies of all initial FAA 7460-1 forms for  
3 all individual wind turbines or any other individual structure that  
4 requires a FAA Form 7460-1 that is part of a wind energy facility  
5 within thirty (30) days of the initial filing with the FAA. The  
6 Oklahoma Aeronautics Commission shall prescribe the submittal  
7 requirements for the 7460-1 form. The owner of the wind energy  
8 facility shall send copies of the notification to the board of  
9 county commissioners of every county in which all or a portion of  
10 the wind energy facility is to be located within twenty-four (24)  
11 hours of filing with the Corporation Commission. If all or a  
12 portion of the wind energy facility is to be located within the  
13 incorporated area of a municipality, copies of the notification  
14 shall also be sent to the governing body of the municipality within  
15 twenty-four (24) hours of filing with the Corporation Commission.  
16 If the owner of a wind energy facility is required to file  
17 subsequent 7460-1 forms with the FAA due to changing locations or  
18 heights of individual structures from the locations or heights  
19 originally proposed in the initial 7460-1 forms submitted to the  
20 Oklahoma Aeronautics Commission, the owner shall, within ten (10)  
21 days of filing with the FAA, submit such subsequent 7460-1 forms to  
22 the Corporation Commission and Oklahoma Aeronautics Commission. A  
23 wind energy facility owner shall not be required to start the  
24 notification processes over unless the subsequent 7460-1 forms

1 expand the project beyond its original boundaries submitted to the  
2 Corporation Commission.

3 B. Within ten (10) days of receiving a FAA 7460-1 form, as  
4 provided for in subsection A of this section, the Oklahoma  
5 Aeronautics Commission shall notify the Oklahoma Strategic Military  
6 Planning Commission. The Oklahoma Strategic Military Planning  
7 Commission shall notify local base commanders upon receipt of this  
8 notification. The Oklahoma Strategic Military Planning Commission  
9 shall submit a letter to the Military Aviation and Installation  
10 Assurance Siting Clearinghouse outlining potential areas of impact,  
11 as provided in Section 160.20 of this title, within thirty (30) days  
12 of receipt of the notification. The letter from the Oklahoma  
13 Strategic Military Planning Commission shall be submitted to the  
14 Corporation Commission, the Oklahoma Aeronautics Commission and the  
15 wind energy facility owner at the same time the letter is submitted  
16 to the Clearinghouse.

17 C. Within six (6) months of submitting the notification with  
18 the Corporation Commission as provided for in subsection A of this  
19 section, the owner of the wind energy facility shall cause a copy of  
20 the notification to be published in a newspaper of general  
21 circulation in the county or counties in which all or a portion of  
22 the wind energy facility is to be located. Proof of publication  
23 shall be submitted to the Corporation Commission.

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

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

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

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

22 Provided, the notice requirement under this subsection shall include  
23 eligible lessees which, at the time that notice is to be given, are  
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1 not actively developing or producing from their leasehold or  
2 leaseholds.

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

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

20 F. With regard to the surface estate upon which the owner of a  
21 wind energy facility intends to construct a wind energy facility, at  
22 least sixty (60) days before entering upon the surface estate for  
23 the purposes of commencement of construction of the wind energy  
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1 facility, the owner shall provide written notice, by certified mail,  
2 of its intent to construct the wind energy facility to:

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

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

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

20 Provided, the notice requirement under this subsection shall include  
21 eligible lessees which, at the time that notice is to be given, are  
22 not actively developing or producing from their leasehold or  
23 leaseholds.

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) days of receiving said notice, any operator, as  
14 described in paragraphs 1, 2 and 3 of this subsection shall  
15 reciprocate, in writing by certified mail, certain site, operational  
16 and infrastructure information, with sufficient specificity, to be  
17 shared with the owner of the wind energy facility to assist both  
18 with the safe construction and operation pertaining to the surface  
19 estate. This information should include ~~ALTA~~ American Land Title  
20 Association (ALTA) surveys of existing subsurface and surface  
21 improvements on the property, if any, as well as other technical  
22 specifications for existing improvements such as pipe size,  
23 material, capacity and depth.

1 G. The owner of a wind energy facility shall not commence  
2 construction on the facility until the notification and public  
3 meeting requirements of this section have been met. If an owner of  
4 a wind energy facility fails to submit the information as required  
5 in this section, the owner shall be subject to an administrative  
6 penalty from the Corporation Commission not to exceed One Thousand  
7 Five Hundred Dollars (\$1,500.00) per day, per violation as provided  
8 by law.

9 SECTION 2. This act shall become effective November 1, 2023.

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11 59-1-1433 RD 1/18/2023 6:45:13 PM  
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