

Senate File 2447

S-5109

1 Amend Senate File 2447 as follows:

2 1. Page 1, line 1, by striking <2025> and inserting <2026>

3 2. Page 1, line 13, by striking <2025> and inserting <2026>

4 3. Page 1, line 28, after <library,> by inserting <a  
5 hospital or other medical facility, a nursing home, a business  
6 or workplace, a government office,>

7 4. Page 2, line 21, by striking <A> and inserting <Unless  
8 provided in paragraph "b", a>

9 5. Page 2, by striking lines 26 through 29.

10 6. Page 2, line 30, by striking <(2)> and inserting <(1)>

11 7. Page 2, line 34, by striking <(3)> and inserting <(2)>

12 8. Page 3, line 4, by striking <(4)> and inserting <(3)>

13 9. Page 3, after line 7 by inserting:

14 <b. (1) A wind energy conversion facility shall be sited  
15 or repowered no less than one and one-quarter mile or five  
16 times the total height of the facility to be constructed or  
17 repowered, whichever is greater, from any existing abutting  
18 dwelling or community building.

19 (2) A wind energy conversion facility shall be sited or  
20 reported no less than two miles from the corporate limits of  
21 any city.>

22 10. Page 3, line 8, by striking <b.> and inserting <c.>

23 11. Page 3, line 15, by striking <c.> and inserting <d.>

24 12. Page 4, line 15, after <7.> by inserting <a.>

25 13. Page 4, line 18, by striking <a.> and inserting <(1)>

26 14. Page 4, by striking lines 22 through 29.

27 15. Page 4, line 30, by striking <c.> and inserting <(2)>

28 16. Page 4, line 34, by striking <d.> and inserting <(3)>

29 17. Page 5, line 2, by striking <e.> and inserting <(4)>

30 18. Page 5, line 5, by striking <f.> and inserting <(5)>

31 19. Page 5, line 8, by striking <g.> and inserting <(6)>

32 20. Page 5, line 12, by striking <h.> and inserting <(7)>

33 21. Page 5, after line 16 by inserting:

34 <b. (1) A local authority shall implement a sound  
35 limitation standard that requires a maximum of forty-seven

1 decibel sound from the wind energy conversion facility during  
2 the day and a maximum of thirty decibel sound during the night,  
3 as measured at an existing abutting dwelling or community  
4 building. Decibel modeling shall use the A-weighted scale as  
5 designed by the American national standards institute. Sound  
6 modeling shall be completed by a professional board-certified  
7 by the institute of noise control engineering, or an  
8 appropriately licensed professional engineer.

9 (2) A local authority shall require, prior to the  
10 construction of the wind energy conversion facility, a study to  
11 be completed that analyzes the effects the proposed wind energy  
12 conversion facility will have on migratory birds, eagles, and  
13 other winged wildlife. The study shall be conducted by a  
14 qualified third party and all costs of the study shall be borne  
15 by the owner of the wind energy conversion facility.>

16 22. Page 5, line 20, after <authority.> by inserting <The  
17 waiver shall be valid provided the location of the facility  
18 does not violate the standards in this section for affected  
19 landowners that have not granted a waiver.>

20 23. Page 6, line 9, by striking <may> and inserting <shall>

21 24. Page 6, line 21, by striking <shall not> and inserting  
22 <may>

23 25. Page 6, line 23, by striking <may> and inserting <shall>

24 26. Page 7, line 31, by striking <2025> and inserting <2026>

25 27. Page 7, line 35, by striking <2025> and inserting <2026>

26 28. Page 8, line 4, by striking <2025> and inserting <2026>

27 29. Page 9, after line 12 by inserting:

28 <c. When considering whether to approve, approve with  
29 modifications, or deny an application requesting approval,  
30 rezoning, or a special or conditional use permit for a  
31 renewable electric power generation facility or modification  
32 of an approved rezoning or special or conditional use permit,  
33 the local authority shall consider the results of the study  
34 required under subsection 7, paragraph "b", subparagraph (2),  
35 or the long-term and short-term effects of the facility,

1 including property tax revenue, property values, population  
2 levels, and effects on school enrollment.>

3 30. Page 9, line 13, by striking <c.> and inserting <d.>

4 31. Page 9, line 18, after <section > by inserting <or must  
5 be based on considerations required under paragraph "c">

6 32. Page 9, after line 21 by inserting:

7 <e. Prior to approval, approval with modifications, or  
8 denial of an application requesting approval, rezoning, or a  
9 special or conditional use permit for a renewable electric  
10 power generation facility or modification of an approved  
11 rezoning or special or conditional use permit, individual  
12 persons serving as local authorities shall disclose any  
13 financial investment or other connection related to the  
14 consideration of the proposed project. The information  
15 disclosed under this paragraph shall be made publicly  
16 available.>

17 33. Page 9, by striking lines 22 through 32.

18 34. Page 9, line 33, by striking <b.> and inserting <17.>

19 35. Page 9, line 34, by striking <six months> and inserting  
20 <one year>

21 36. Page 10, after line 7 by inserting:

22 <Sec. \_\_\_\_. **NEW SECTION. 476.53B Wind energy conversion**  
23 **facilities — requirements.**

24 1. As used in this section:

25 *a. "Applicant"* means any person, firm, corporation,  
26 partnership, limited liability company, or governmental  
27 subdivision seeking to develop, construct, or operate a wind  
28 energy conversion facility, as defined in section 476C.1, in  
29 Iowa.

30 *b. "Karst topography"* means terrain characterized by  
31 sinkholes, voids, caverns, disappearing streams, or other  
32 features produced by the dissolution of carbonate rocks.

33 *c. "Licensed surveyor"* means a professional land surveyor  
34 licensed under chapter 542B with demonstrated experience in  
35 subsurface and geological hazard evaluation.

1     *d. "Material damage"* means direct physical damage exceeding  
2 one hundred dollars in repair costs or any event causing  
3 collapse or functional failure of a well, septic system,  
4 lagoon, slurry containment, or structural foundation, or  
5 contamination of groundwater or a cave system.

6     *e. "Watershed"* means the hydrological area in which surface  
7 water or groundwater drains toward a common outlet.

8     *f. "Wind energy conversion facility"* means the same as  
9 defined in section 476C.1.

10    2. *a.* An applicant shall commission a subsurface and  
11 environmental survey by a licensed surveyor that must be  
12 submitted prior to issuance of any state or local construction  
13 permit. The survey must address the likelihood of all the  
14 following:

15       (1) Disturbance to karst topography or related subsurface  
16 formations from construction or operation.

17       (2) That any well, septic system, waste lagoon, holding  
18 pond, or liquid containment structure will be disturbed  
19 by vibrations or subsurface pressures, and whether such  
20 disturbance may result in material damage, including breach of  
21 fecal slurry lagoons causing contaminant entry into aquifers.

22       (3) Contamination to any cave system, groundwater conduit,  
23 or ecological area supporting endangered or threatened species.

24       (4) That foundations of existing buildings within one mile  
25 of the proposed site will be disturbed or impaired.

26    *b.* The survey report shall be submitted to the county board  
27 of supervisors, the department of natural resources, and the  
28 Iowa utilities commission, and shall be made available to the  
29 public.

30    3. An applicant shall obtain and maintain third-party  
31 insurance against any reasonably foreseeable loss identified  
32 in the survey report required under subsection 2 throughout  
33 construction and operation. The policy shall include all of  
34 the following requirements:

35       *a.* Name all landowners within the affected watershed and the

1 state of Iowa as additional insureds and loss payees.

2 *b.* Minimum coverage limits sufficient to cover full  
3 replacement value of any potential loss or contamination  
4 identified in the survey, as established by rule by the  
5 insurance division in the department of commerce.

6 4. Prior to approval of construction, the applicant shall  
7 obtain an independent legal opinion from an attorney licensed  
8 in Iowa and unaffiliated with the applicant that affirms the  
9 proposed project does not constitute a nuisance under chapter  
10 657 or other applicable law. The opinion must be filed with  
11 the county board of supervisors and the department of natural  
12 resources.

13 5. *a.* The board of supervisors shall not issue a  
14 construction permit until the applicant makes a showing that,  
15 more likely than not, considering all foreseeable benefits  
16 and costs, the project will confer a net benefit to county  
17 residents. In deciding whether to issue a permit, the board of  
18 supervisors may consider expert testimony, economic studies,  
19 environmental assessments, and the survey report required under  
20 subsection 2.

21 *b.* Before issuing a construction permit, the board of  
22 supervisors shall hold not less than one public hearing to  
23 discuss the application.

24 *c.* The board of supervisors' decision is subject to  
25 judicial review under chapter 17.

26 6. Compliance with this section is required for any  
27 permit or authorization under chapter 476A or 476C, or other  
28 applicable provisions relating to wind energy conversion  
29 facilities.

30 7. *a.* A violation of this section or rules adopted pursuant  
31 to this section constitutes a public nuisance.

32 *b.* A person in violation of this section is subject to a  
33 civil penalty of not less than five thousand dollars per day  
34 during which the violation occurs.

35 *c.* The attorney general or the county attorney for the

1 county in which the project is located may bring an action to  
2 enjoin violations or recover damages.

3 8. *a.* Any person aggrieved by a violation of this section  
4 may bring a civil action in district court against any person  
5 who violates or participates in a violation of this section.

6 *b.* A civil action under this subsection may be brought  
7 against any of the following:

8 (1) The applicant or developer.

9 (2) Any landowner who grants an easement, lease, or other  
10 property interest for the construction, installation, or  
11 operation of a wind energy conversion facility in violation of  
12 this section.

13 (3) The manufacturer of any wind turbine or component  
14 thereof installed in violation of this section.

15 (4) Any person who installs, erects, or assembles a wind  
16 turbine or wind energy conversion facility in violation of this  
17 section.

18 (5) Any construction company, contractor, or subcontractor  
19 involved in the construction or installation of a wind energy  
20 conversion facility in violation of this section.

21 (6) Any worker, employee, or agent who participates in  
22 the construction, installation, or operation of a wind energy  
23 conversion facility in violation of this section.

24 (7) Any other person who knowingly participates in,  
25 facilitates, or aids in a violation of this section.

26 *c.* A prevailing plaintiff in an action under this subsection  
27 may recover all of the following:

28 (1) Actual damages sustained.

29 (2) Damages of not less than ten thousand dollars per  
30 violation.

31 (3) Injunctive relief, including an order to cease  
32 construction or operation.

33 (4) Reasonable attorney fees and court costs.

34 *d.* All persons found liable under this subsection shall be  
35 jointly and severally liable for all damages awarded.

1 e. An action under this subsection shall be commenced  
2 within fifteen years of the date the plaintiff discovered or  
3 reasonably should have discovered the violation or resulting  
4 injury, whichever is later.

5 f. The remedies provided under this subsection are  
6 cumulative and shall not be construed to limit any other remedy  
7 available at law or in equity.

8 g. A contractual provision purporting to waive rights under  
9 this section shall be void and unenforceable.>

10 37. Page 10, line 12, by striking <2025> and inserting  
11 <2026>

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SANDY SALMON