

Senate File 2 - Introduced

SENATE FILE 2
BY ZAUN

A BILL FOR

1 An Act relating to the siting and operation of certain wind
2 energy conversion facilities.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 476.50 Wind energy conversion
2 facilities — intent — siting — removal.

3 1. a. It is the intent of the general assembly to:

4 (1) Support the establishment and growth of renewable
5 energy in the state through common sense regulations that
6 ensure fairness for landowners, public utilities, and energy
7 consumers.

8 (2) Prevent regulatory manipulation efforts by unregulated
9 entities, as these efforts have a harmful financial impact on
10 energy consumers.

11 (3) Encourage statewide uniform standards for the siting
12 and development of wind energy conversion facilities in the
13 state.

14 b. It is not the intent of the general assembly to negatively
15 affect renewable energy generation for private generation
16 customers, rate-regulated public utilities, municipally owned
17 utilities, or rural electric cooperatives.

18 2. For purposes of this section, unless the context
19 otherwise requires:

20 a. "*Abutting dwelling*" means an occupied building or
21 structure used primarily for human habitation which is located
22 on nonparticipating property.

23 b. "*Local authority*" means the same as defined in section
24 169C.1.

25 c. "*Nonparticipating property*" means any real property
26 owned by a person who has not granted permission, an easement,
27 or other similar agreement to site a wind energy conversion
28 facility on such property.

29 d. "*Public road right-of-way*" means the same as defined in
30 section 306.3.

31 e. "*Railroad right-of-way*" means the same as defined in
32 section 321I.1.

33 f. "*Unoccupied structure*" means a building or structure
34 which is not occupied or used primarily for human habitation
35 at the time of siting.

1 *g.* "Wind energy conversion facility" or "facility" means a
2 wind energy conversion facility, as defined in section 476C.1,
3 which has a nameplate generating capacity greater than one
4 hundred kilowatts.

5 3. *a.* A wind energy conversion facility shall be sited at
6 the following distances:

7 (1) No less than two and one-half times the total height of
8 a wind turbine to be constructed on a proposed facility or five
9 thousand feet, whichever is greater, from any existing abutting
10 dwelling or nonparticipating property.

11 (2) No less than one and one-tenth times the total height of
12 a wind turbine to be constructed on a proposed facility or five
13 hundred feet, whichever is greater, from any existing overhead
14 utility line, electric substation, public road right-of-way,
15 railroad right-of-way, or unoccupied structure.

16 *b.* For purposes of this subsection, distance shall be
17 measured from the center of the wind energy conversion facility
18 foundation to the nearest point of the abutting dwelling,
19 overhead utility line, electric substation, nonparticipating
20 property, public road right-of-way, railroad right-of-way, or
21 unoccupied structure.

22 *c.* For purposes of this subsection, the total height of
23 a wind turbine shall be measured as the distance from ground
24 level to the tip of the wind turbine's blade at its highest
25 vertical point.

26 4. *a.* Prior to the siting of a proposed wind energy
27 conversion facility, the owner of the proposed facility shall
28 notify the owner or operator of any registered or licensed
29 tower used for emergency services communications which is
30 located within a five-mile radius of the proposed location.

31 *b.* A wind energy conversion facility shall be sited at a
32 location which does not interfere with any existing emergency
33 services communication equipment or systems. If the facility
34 interferes with any such communication equipment or systems,
35 the owner of the facility shall take all steps necessary to

1 mitigate the effects of the interference.

2 5. Prior to the siting of a proposed wind energy conversion
3 facility, the owner of the proposed facility shall file a
4 decommissioning plan with the county recorder of the county in
5 which the proposed facility will be located. If the proposed
6 facility will be located within two miles outside the corporate
7 limits of a city, the owner of the proposed facility shall also
8 file the plan with the city clerk of the city. The plan shall
9 be accompanied by a bond or an irrevocable letter of credit
10 in an amount sufficient to cover the costs of removal of the
11 facility. This subsection shall not apply to a wind energy
12 conversion facility owned or operated by a rate-regulated
13 public utility.

14 6. A wind energy conversion facility shall be presumed
15 abandoned if the facility fails to operate or be staffed for
16 more than twenty-four consecutive months without generating
17 energy. The owner of the abandoned facility shall be
18 responsible for the removal of the facility, including the
19 removal of infrastructure four feet below ground level.

20 7. This section does not prohibit a local authority
21 from imposing additional or more restrictive regulations or
22 requirements relating to the siting or removal of wind energy
23 conversion facilities, except to the extent such regulations or
24 requirements conflict with this section or any other provision
25 of law.

26 8. This section does not prohibit a landowner from waiving
27 any requirements under this section by conveying an easement or
28 other property interest.

29 9. a. This section shall not apply to a wind energy
30 conversion facility existing on or before January 1, 2024, or a
31 wind energy conversion facility, the construction of which is
32 begun prior to January 1, 2024, as demonstrated through proof
33 of design and the issuance of permits, easements, or other
34 property interests, and the construction of which is scheduled
35 for completion no later than January 1, 2025. The board may

1 for good cause shown grant additional time for the completion
2 of a facility scheduled for completion by January 1, 2025, for
3 a period not to exceed twelve months.

4 *b.* This section shall not apply to the repowering of a
5 wind energy conversion facility existing on or before January
6 1, 2024, provided that the repowering does not result in a
7 violation of subsection 3. For purposes of this paragraph,
8 "*repowering*" shall mean the same as defined in section 476.53.

9 10. The board may adopt rules necessary for the
10 implementation of this section.

11 **Sec. 2. NEW SECTION. 476.50A Wind energy conversion**
12 **facilities — connection with electric distribution system.**

13 1. A wind energy conversion facility, as defined in section
14 476C.1, which has a nameplate generating capacity greater than
15 five hundred kilowatts shall not connect with the electric
16 distribution system unless authorized by the board in a
17 contested case proceeding pursuant to chapter 17A. The board
18 shall set the case for hearing and give such notice thereof as
19 it deems appropriate. The board shall, as part of its review,
20 consider engineering studies conducted by affected public
21 utilities.

22 2. This section shall not apply to a wind energy conversion
23 facility owned or operated by a rate-regulated public utility.

24 **EXPLANATION**

25 The inclusion of this explanation does not constitute agreement with
26 the explanation's substance by the members of the general assembly.

27 This bill establishes new Code sections 476.50 and 476.50A,
28 relating to the siting and operation of certain wind energy
29 conversion facilities.

30 New Code section 476.50 provides certain siting requirements
31 for wind energy conversion facilities which have a nameplate
32 generating capacity greater than 100 kilowatts. The bill
33 provides that it is the intent of the general assembly to:
34 support the establishment and growth of renewable energy in
35 Iowa through common sense regulations that ensure fairness;

1 prevent regulatory manipulation efforts by unregulated
2 entities; and encourage statewide uniform standards for the
3 siting and development of wind energy conversion facilities
4 in Iowa. The bill provides that it is not the intent of
5 the general assembly to negatively affect renewable energy
6 generation for private generation customers, rate-regulated
7 public utilities, municipally owned utilities, or rural
8 electric cooperatives.

9 The bill provides that a facility shall be sited at a
10 distance no less than the greater of two and one-half times
11 the total height of a wind turbine to be constructed on a
12 proposed facility, as described in the bill, or 5,000 feet
13 from any existing abutting dwelling or nonparticipating
14 property, and at a distance no less than the greater of one
15 and one-tenth times the total height of a wind turbine or
16 500 feet from any existing overhead utility line, electric
17 substation, public road right-of-way, railroad right-of-way,
18 or unoccupied structure. The bill includes definitions for
19 "abutting dwelling", "nonparticipating property", "public
20 road right-of-way", "railroad right-of-way", and "unoccupied
21 structure".

22 The bill provides that prior to the siting of a proposed
23 facility, the owner of the proposed facility shall notify the
24 owner or operator of any registered or licensed emergency
25 services communications tower located within a five-mile radius
26 of the proposed location. A facility shall be sited at a
27 location which does not interfere with any existing emergency
28 services communication equipment or systems. If the facility
29 interferes with any such equipment, the owner of the facility
30 shall take all necessary steps to mitigate the interference.

31 The bill provides that prior to the siting of a proposed
32 facility, the owner of the proposed facility shall file
33 a decommissioning plan with the county where the proposed
34 facility will be located, and specified cities if applicable.
35 The plan shall be accompanied with a bond or irrevocable letter

1 of credit in an amount sufficient to cover the costs of removal
2 of the facility. This requirement does not apply to a facility
3 owned or operated by a rate-regulated public utility.

4 The bill provides that a facility shall be presumed
5 abandoned and shall be removed by the owner, including the
6 removal of infrastructure four feet below ground level, if
7 the facility fails to operate or be staffed for more than 24
8 consecutive months without generating energy.

9 The bill provides that it does not prohibit local
10 authorities from imposing additional or more restrictive
11 requirements relating to the siting or removal of facilities,
12 unless such requirements conflict with the bill or any other
13 provision of law. The bill also provides that it does not
14 prohibit a landowner from waiving any requirements of the bill
15 with respect to siting.

16 The bill provides that it does not apply to wind energy
17 conversion facilities existing on or before January 1, 2024, or
18 facilities the construction of which is begun prior to January
19 1, 2024, and is scheduled for completion by January 1, 2025,
20 as described in the bill. The Iowa utilities board may grant
21 additional time for completion of such a facility for a period
22 of up to 12 months upon a showing of good cause.

23 The bill provides that it does not apply to the repowering of
24 a wind energy conversion facility existing on or before January
25 1, 2024, provided that the repowering does not violate the
26 siting distance requirements contained in the bill.

27 The bill provides that the board may adopt rules to implement
28 Code section 476.50.

29 New Code section 476.50A provides that wind energy
30 conversion facilities which have a nameplate generating
31 capacity of greater than 500 kilowatts shall not connect with
32 the electric distribution system unless authorized by the board
33 pursuant to a contested case proceeding, after notice and a
34 hearing. In doing so, the board shall consider engineering
35 studies conducted by affected public utilities. Code section

S.F. 2

1 476.50A does not apply to facilities owned or operated by
2 rate-regulated public utilities.