

Senate File 376 - Introduced

SENATE FILE 376
BY KLIMESH

A BILL FOR

- 1 An Act relating to the siting and operation of renewable electric
- 2 power generating facilities.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 476.53A, Code 2025, is amended to read as
2 follows:

3 **476.53A Renewable electric power generation.**

4 1. It is the intent of the general assembly to encourage
5 the development of renewable electric power generation. It is
6 also the intent of the general assembly to encourage the use of
7 renewable power to meet local electric needs and the development
8 of transmission capacity to export wind excess power generated in
9 Iowa.

10 2. To implement the intent of the general assembly and
11 promote uniformity, the standards in this section shall apply to
12 the approval by local authorities of all wind energy conversion
13 facilities proposed after January 1, 2025.

14 3. For purposes of this section, unless the context otherwise
15 requires:

16 a. "Abutting dwelling" means an occupied building or
17 structure used primarily for human habitation that is located on
18 nonparticipating property.

19 b. "Battery energy storage system" means an electrochemical
20 device that charges, or collects, energy from the grid or a
21 generation facility, stores that energy, and then discharges that
22 energy at a later time to provide electricity or other grid
23 services.

24 c. "Community building" means any one or more of the
25 following buildings that is existing and occupied on the date
26 that the application for approval, rezoning, or a special or
27 conditional use permit is filed with the county: a school, a
28 place of worship, a day care facility, a public library, or a
29 community center.

30 d. "Local authority" means a city as defined in section 362.2
31 or a county as provided in chapter 331.

32 e. "Nonparticipating property" means any real property owned
33 by a person who has not granted written permission, consent, an
34 easement, or other similar agreement pertaining to a wind energy
35 conversion facility on such property.

1 f. "Public road right-of-way" means the same as defined in
2 section 306.3.

3 g. "Railroad right-of-way" means the same as defined in
4 section 476.27.

5 h. "Renewable electric power generation facility" means
6 a battery energy storage system, a solar energy conversion
7 facility, or a wind energy conversion facility.

8 i. "Repowering" means the same as defined in section 476.53.

9 j. "Solar energy conversion facility" means a solar energy
10 conversion facility, as defined in section 476C.1, that has a
11 nameplate generating capacity greater than one hundred kilowatts.

12 k. "Unoccupied structure" means a building or structure that
13 is not occupied or used primarily for human habitation at the
14 time of siting.

15 l. "Wind energy conversion facility" or "facility" means a
16 wind energy conversion facility, as defined in section 476C.1, or
17 a wind turbine that is part of a wind energy conversion system,
18 that has a nameplate generating capacity greater than one hundred
19 kilowatts.

20 4. a. A local authority may determine setback standards
21 for wind energy conversion facilities that, notwithstanding any
22 statute or regulation to the contrary, shall be no greater than
23 and shall not include any setback requirements beyond those in
24 this subsection:

25 (1) The facility shall be sited three times the total height
26 of a wind energy conversion facility to be constructed on
27 a proposed facility from any existing abutting dwelling or
28 community building.

29 (2) The facility shall be sited one and one-tenth times
30 the total height of a wind energy conversion facility to
31 be constructed on a proposed facility from any existing
32 nonparticipating property.

33 (3) The facility shall be sited one and one-tenth times
34 the total height of a wind energy conversion facility to be
35 constructed on a proposed facility from any existing overhead

1 utility line, electric substation, public road right-of-way,
2 railroad right-of-way, or unoccupied structure.

3 (4) Each wind turbine shall not exceed the height allowed
4 under the determination of no hazard for that turbine from the
5 federal aviation administration obstruction evaluation under 14
6 C.F.R. pt. 77.

7 b. For purposes of this subsection, the facility site
8 distance shall be measured from the center of the wind
9 energy conversion facility foundation to the nearest point
10 of the abutting dwelling, community building, nonparticipating
11 property, overhead utility line, electric substation, public road
12 right-of-way, railroad right-of-way, or unoccupied structure.

13 c. For purposes of this subsection, the total height of a
14 wind energy conversion facility shall be measured as the distance
15 from ground level to the tip of the wind energy conversion
16 facility's blade at its highest vertical point.

17 5. A local authority may determine setback standards for
18 solar energy conversion facilities. For purposes of this
19 subsection, distance shall be measured from the nearest
20 aboveground point of a solar facility, not including any fencing,
21 to the nearest point of the abutting dwelling, overhead utility
22 line, electric substation, nonparticipating property line,
23 public road right-of-way, railroad right-of-way, or unoccupied
24 structure. The standards shall be no greater than:

25 a. Fifty feet from the near edge of any existing
26 nonparticipating property line or one hundred feet from any
27 existing abutting dwelling or community building, whichever is
28 greater.

29 b. Fifty feet from any existing overhead utility line,
30 substation, public road right-of-way, or railroad right-of-way.

31 6. A local authority may determine setback standards for
32 battery energy storage systems. For purposes of this subsection,
33 distance shall be measured from the nearest storage container
34 edge to the nearest point of the abutting dwelling, overhead
35 utility line, electric substation, nonparticipating property

1 line, public road right-of-way, railroad right-of-way, or
2 unoccupied structure. The standards shall be no greater than:

3 a. Fifty feet from any existing participating property line.

4 b. One hundred feet from any existing nonparticipating
5 property line or any existing abutting dwelling or community
6 building.

7 c. Fifty feet from any existing nonassociated transmission,
8 substation, or distribution lines.

9 d. Fifty feet from any public road right-of-way or railroad
10 right-of-way.

11 7. A local authority may only implement the following
12 additional standards and only to the extent specified in this
13 subsection:

14 a. A shadow flicker standard that is no more restrictive
15 than thirty hours per year under planned operating conditions as
16 indicated by industry standard computer modeling measured from an
17 abutting dwelling or community building.

18 b. A sound limitation that is no more restrictive than
19 a maximum forty-seven decibel sound from the wind energy
20 conversion facility as measured at an existing abutting dwelling
21 or community building. Decibel modeling shall use the
22 A-weighted scale as designed by the American national standards
23 institute. Sound modeling shall be completed by a professional
24 board-certified by the institute of noise control engineering, or
25 an appropriately licensed professional engineer.

26 c. A requirement that the applicant of a proposed wind
27 energy conversion facility shall agree to repair or replace any
28 damaged drainage infrastructure if directly attributable to the
29 construction or operation of the facility.

30 d. A requirement that renewable electric power generation
31 facilities meet all applicable national electric safety code and
32 international building code requirements.

33 e. A requirement that renewable electric power generation
34 facilities meet all applicable provisions of national fire
35 protection association standard 855.

1 f. A requirement that renewable electric power generation
2 facilities for fencing are no more restrictive than the
3 requirement issued by the national electric safety code.

4 g. A requirement for solar energy conversion facilities
5 to maintain appropriate ground cover within the solar energy
6 conversion facility's fence line throughout the life of the
7 facility to minimize erosion.

8 h. A height requirement for solar energy conversion
9 facilities for a minimum one and one-half feet panel height
10 from the ground, exclusive of supporting infrastructure, with no
11 additional or higher minimum height requirements for the solar
12 energy conversion facility.

13 8. A local authority must provide a process for the owner
14 of any abutting dwelling, nonparticipating property, or community
15 building to waive the standards in this section or those adopted
16 by a local authority.

17 9. A local authority must use reasonable estimates of the
18 cost of approving an application for a facility, which shall not
19 exceed one thousand dollars per wind energy conversion system,
20 solar energy conversion system, or battery energy storage system.
21 A local authority may not require the facility owner to pay
22 costs, fees, or charges for administrative or road work that is
23 not specifically and uniquely attributable to the approval and
24 construction of the facility.

25 10. A local authority shall not prohibit or regulate testing
26 activities undertaken by a wind energy conversion facility owner
27 for purposes of determining the suitability of the placement of a
28 wind energy conversion facility.

29 11. Ordinances, limitations, or other requirements imposed
30 after an application for approval, rezoning, or a special or
31 conditional use permit for a renewable electric power generation
32 facility has been submitted or previously approved shall not
33 be construed to limit or impair the construction, operation, or
34 maintenance of the renewable electric power generation facility.

35 12. A local authority shall not prohibit an affected

1 landowner or other entity from waiving any requirements under
2 this section by the conveyance of an easement or other property
3 interest.

4 13. a. A local authority may require the owner of the
5 proposed renewable electric power generation facility to file
6 with the county recorder of the county or counties in which
7 the proposed facility will be located a decommissioning plan
8 outlining measures that will be taken to return the land to a
9 reasonably similar state to the condition that existed before
10 construction of the renewable electric power generation facility.
11 Removal requirements of underground project infrastructure may
12 not exceed a maximum depth of four feet. If the proposed
13 facility will be located within two miles of the corporate limits
14 of a city, the owner of the proposed facility may also be
15 required to file the plan with the city clerk. A local authority
16 shall not require a revision or amendment of a decommissioning
17 plan.

18 b. A local authority may require the owner to provide
19 in the decommissioning plan proof of financial assurance to
20 fund decommissioning efforts, which assurance is calculated
21 by an independent third party as the estimated costs of
22 decommissioning, inclusive of net salvage value, no earlier than
23 the following schedule:

24 (1) Five percent of determined decommissioning costs
25 committed by the initial commercial operation date.

26 (2) One hundred percent of determined decommissioning costs
27 committed by the fifteenth year of commercial operation.

28 c. After the fifteenth year of commercial operation, the
29 owner of the renewable electric power generation facility may
30 reestimate the cost of decommissioning, inclusive of net salvage
31 value, using an independent third party for the purpose of
32 redetermining the amount required for financial assurance.

33 d. Evidence of financial security may be in the form of a
34 surety bond, collateral bond, parent guaranty, cash, cashier's
35 check, certificate of deposit, bank joint custody receipt, or

1 other approved negotiable instrument.

2 e. This subsection shall not apply to a renewable electric
3 power generation facility owned or operated by a public utility
4 regulated by the Iowa utilities commission.

5 14. A renewable electric power generation facility shall be
6 presumed abandoned if the facility fails to operate for more
7 than twenty-four consecutive months without generating energy,
8 excluding repowering or required maintenance events or force
9 majeure events outside of the owner's control. The owner of the
10 abandoned facility shall be responsible for the removal of the
11 facility, including the removal of infrastructure four feet below
12 ground level and subject to any reasonable additional conditions
13 of a decommissioning plan filed with the local authority.

14 15. a. This section shall not apply to a wind energy
15 conversion facility that has a nameplate capacity of twenty-five
16 or more megawatts on any single gathering line and if the
17 facility has applied for certification pursuant to chapter 476A.

18 b. This section shall not apply to a renewable electric
19 power generation facility that is operating or has submitted
20 an application for the issuance of permits on or before the
21 effective date of this Act.

22 c. This section shall not apply to the repowering of a wind
23 energy conversion facility existing on or before January 1, 2025.

24 d. This section shall not apply to the repowering of a
25 renewable electric power generation facility, which is not
26 already excluded under paragraph "c", existing on or before
27 January 1, 2025, provided that the repowering does not require
28 the issuance of any new permits, or amendments to existing
29 permits, from a local authority. This section shall apply to
30 the repowering of a renewable electric power generation facility
31 existing on or before January 1, 2025, when such repowering
32 requires the issuance of any new permits, or amendments to
33 existing permits, from a local authority.

34 16. a. A local authority within one hundred twenty calendar
35 days of receiving an application requesting approval, rezoning,

1 or a special or conditional use permit for a renewable electric
2 power generation facility, or modification of an approved siting,
3 rezoning, or special or conditional use permit, shall comply with
4 the following provisions:

5 (1) Review the application for conformity with applicable
6 local zoning regulations, building permit requirements, and
7 consistency with this chapter. An application is deemed to
8 be complete unless the local authority notifies the applicant
9 in writing, within thirty calendar days of submission of the
10 application, specifying the deficiencies in the application that,
11 if cured, would make the application complete. The local
12 authority's time frame to review the application is tolled
13 beginning the date the notice is sent. The local authority's
14 time frame of one hundred twenty days for review of the
15 application shall continue running when the applicant cures the
16 specified deficiencies. Following the applicant's supplemental
17 submission, the local authority has ten days to notify the
18 applicant if the supplemental submission did not provide the
19 information identified in the original notice that specified
20 deficiencies in the application. The local authority's time
21 frame of one hundred twenty days to review the application is
22 tolled in the case of second or subsequent notices in conformance
23 with this subparagraph. The local authority shall not include
24 deficiencies in a second or subsequent notice that were not
25 delineated in the original notice. The local authority's time
26 frame for review does not toll if the local authority requests
27 information regarding any of the considerations a local authority
28 may not consider according to this section.

29 (2) Make its final decision to approve or disapprove the
30 application.

31 (3) Advise the applicant in writing of its final decision.

32 b. A local authority must approve, approve with
33 modifications, or deny an application requesting approval,
34 rezoning, or a special or conditional use permit for a renewable
35 electric power generation facility or modification of an approved

1 rezoning or special or conditional use permit within one hundred
2 twenty days of the submission of an application.

3 c. Denial of an application for approval, rezoning, or a
4 special or conditional use permit by a local authority must
5 be based on substantial evidence in the record of material
6 noncompliance with one or more specific provisions of this
7 section or regulations of local authorities that are not
8 inconsistent with this section. An appeal of such a denial
9 by an adversely affected party may be brought by certiorari as
10 provided in sections 335.18 and 335.19. The reviewing court
11 shall expedite the proceeding to the extent practicable.

12 17. a. A local authority shall not adopt regulations that
13 explicitly or implicitly disallow a renewable electric power
14 generation facility from being developed or operated in any
15 district zoned to allow agricultural or industrial use. A local
16 authority may not prohibit or otherwise limit renewable electric
17 power generation facility development based on corn suitability
18 rating as calculated using the methodology recognized by the Iowa
19 state university of science and technology. A local authority
20 may not limit the size of any specific project or create caps on
21 projects based on total land mass within the local jurisdiction.

22 b. A local authority may place one temporary moratorium for
23 up to six months on the installation of a wind energy conversion
24 facility for the purpose of adopting new regulations that are
25 consistent with this section. All new, revised, or amended
26 ordinances or regulations pertaining to solar or solar energy
27 conversion facilities shall only be prospectively applied.

28 c. Nothing in this section requires a local authority
29 to adopt standards for approval of renewable electric power
30 generation facilities.

31 Sec. 2. COMPLIANCE BY LOCAL AUTHORITIES. If any local
32 authority has a standard in effect on or after the effective date
33 of this Act that does not comply with the provisions in this Act,
34 the local authority must amend the standard to comply with this
35 Act by December 31, 2025.

EXPLANATION

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

This bill relates to siting and operation of certain renewable electric power generation facilities.

The bill creates standard-making ability for local authorities approving a renewable electric power generation facility (facility) proposed after January 1, 2025.

The bill sets guidelines for a local authority to implement a facility setback standard, which shall include a facility's distance from specified existing buildings based on the facility's height. The local authority must include a process for an owner of an abutting dwelling, nonparticipating property, or community building to waive the setback standards.

The bill includes additional standards a local authority may implement including shadow flicker standards, sound limitations, a requirement that an applicant for a proposed facility shall agree to repair any damages caused by the facility, wind turbine height limitations, electric code and building code standards, fire protection standards, fencing limitations, ground cover standards, and solar energy conversion facility panel height requirements.

The bill requires a local authority to utilize reasonable estimates for application approval costs and prohibits the local authority from requiring the facility owner to pay for administration or road work that is not directly attributable to the approval and construction of the facility. A local authority shall not prohibit or regulate a facility testing the suitability of a facility placement. Any regulations enacted after the application for a facility permit shall not limit the construction, operation, or maintenance of that facility. A local authority shall not prohibit an affected landowner or other entity from waiving requirements by conveyance of an easement.

The bill provides that a local authority may require a facility that is not owned or operated by a public

1 utility regulated by the Iowa utilities commission to file a
2 decommissioning plan including certain measures. The local
3 authority is prohibited from requiring a facility to provide a
4 revision or amendment of a decommissioning plan.

5 The bill requires a facility to be presumed abandoned if the
6 facility has not been in operation for 24 months, with some
7 exceptions. The owner of the abandoned facility is responsible
8 for removing the facility and is subject to any other reasonable
9 conditions in the decommissioning plan if applicable.

10 The bill shall not apply to a wind energy conversion facility
11 with a nameplate capacity of 25 or more megawatts and that has
12 applied for certification under Code chapter 476A, a facility
13 that is currently operating or has applied for certification
14 before the enactment of the bill, or the repowering of a facility
15 existing on or before January 1, 2025, subject to certain
16 conditions.

17 The bill requires a local authority to approve a request
18 by a facility if the request is in compliance with the bill.
19 A local authority shall issue a decision on a request by a
20 facility within 120 days of the request submission. The denial
21 of a request shall be supported by substantial evidence of
22 noncompliance by the facility.

23 The bill prohibits a local authority from disallowing the
24 development of a facility in an agricultural or industrial
25 district. The bill provides that a local authority may not
26 prohibit or otherwise limit renewable electric power generation
27 facility development based on corn suitability rating as
28 calculated using the methodology recognized by the Iowa state
29 university of science and technology. The bill prohibits a
30 local authority from limiting the size of any specific project
31 or creating caps on projects based on total land mass within the
32 local jurisdiction.

33 The bill allows a local authority to place one temporary
34 moratorium for up to six months on the installation of a wind
35 energy conversion facility for the purpose of adopting new

1 regulations that are consistent with the bill. The bill provides
2 that all new, revised, or amended ordinances or regulations
3 pertaining to solar or solar energy conversion facilities shall
4 only be prospectively applied.

5 The bill expounds that a local authority is not required
6 to adopt standards for approval of renewable electric power
7 generation facilities; however, a local authority with existing
8 siting standards in effect on or after the effective date of the
9 bill that do not comply with the bill must amend the standards to
10 comply with the bill by December 31, 2025.

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