

Senate File 2447 - Introduced

SENATE FILE 2447
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SF 376)

A BILL FOR

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

1 Section 1. Section 476.53A, Code 2025, is amended to read
2 as 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
6 is also the intent of the general assembly to encourage the
7 use of renewable power to meet local electric needs and the
8 development of transmission capacity to export ~~wind~~ excess
9 power generated in Iowa.

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

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

16 a. "Abutting dwelling" means an occupied building or
17 structure used primarily for human habitation that is located
18 on 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
22 that energy at a later time to provide electricity or other
23 grid 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
31 362.2 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,
34 an easement, or other similar agreement pertaining to a wind
35 energy 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
11 a nameplate generating capacity greater than one hundred
12 kilowatts.

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

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

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

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

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

34 (3) The facility shall be sited one and one-tenth times
35 the total height of a wind energy conversion facility to be

1 constructed on a proposed facility from any existing overhead
2 utility line, electric substation, public road right-of-way,
3 railroad right-of-way, or unoccupied structure.

4 (4) Each wind turbine shall not exceed the height allowed
5 under the determination of no hazard for that turbine from the
6 federal aviation administration obstruction evaluation under
7 14 C.F.R. pt. 77.

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

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

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

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

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

34 6. A local authority may determine setback standards
35 for battery energy storage systems. For purposes of this

1 subsection, distance shall be measured from the nearest storage
2 container edge to the nearest point of the abutting dwelling,
3 overhead utility line, electric substation, nonparticipating
4 property line, public road right-of-way, railroad right-of-way,
5 or unoccupied structure. The standards shall be no greater
6 than:

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

8 b. One hundred feet from any existing nonparticipating
9 property line or any existing abutting dwelling or community
10 building.

11 c. Fifty feet from any existing nonassociated transmission,
12 substation, or distribution lines.

13 d. Fifty feet from any public road right-of-way or railroad
14 right-of-way.

15 7. A local authority may only implement the following
16 additional standards and only to the extent specified in this
17 subsection:

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

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

30 c. A requirement that the applicant of a proposed wind
31 energy conversion facility shall agree to repair or replace any
32 damaged drainage infrastructure if directly attributable to the
33 construction or operation of the facility.

34 d. A requirement that renewable electric power generation
35 facilities meet all applicable national electric safety code

1 and international building code requirements.

2 e. A requirement that renewable electric power generation
3 facilities meet all applicable provisions of national fire
4 protection association standard 855.

5 f. A requirement that renewable electric power generation
6 facilities for fencing are no more restrictive than the
7 requirement issued by the national electric safety code.

8 g. A requirement for solar energy conversion facilities
9 to maintain appropriate ground cover within the solar energy
10 conversion facility's fence line throughout the life of the
11 facility to minimize erosion.

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

17 8. A local authority must provide a process for the owner of
18 any abutting dwelling, nonparticipating property, or community
19 building to waive the standards in this section or those
20 adopted by a local authority.

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

29 10. A local authority shall not prohibit or regulate testing
30 activities undertaken by a wind energy conversion facility
31 owner for purposes of determining the suitability of the
32 placement of a wind energy conversion facility.

33 11. Ordinances, limitations, or other requirements imposed
34 after an application for approval, rezoning, or a special
35 or conditional use permit for a renewable electric power

1 generation facility has been submitted or previously approved
2 shall not be construed to limit or impair the construction,
3 operation, or maintenance of the renewable electric power
4 generation facility.

5 12. A local authority shall not prohibit an affected
6 landowner or other entity from waiving any requirements under
7 this section by the conveyance of an easement or other property
8 interest.

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

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

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

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

33 c. After the fifteenth year of commercial operation, the
34 owner of the renewable electric power generation facility
35 may reestimate the cost of decommissioning, inclusive of net

1 salvage value, using an independent third party for the purpose
2 of redetermining the amount required for financial assurance.

3 d. Evidence of financial security may be in the form of a
4 surety bond, collateral bond, parent guaranty, cash, cashier's
5 check, certificate of deposit, bank joint custody receipt, or
6 other approved negotiable instrument.

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

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

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

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

29 c. This section shall not apply to the repowering of a wind
30 energy conversion facility existing on or before January 1,
31 2025.

32 d. This section shall not apply to the repowering of a
33 renewable electric power generation facility, which is not
34 already excluded under paragraph "c", existing on or before
35 January 1, 2025, provided that the repowering does not require

1 the issuance of any new permits, or amendments to existing
2 permits, from a local authority. This section shall apply
3 to the repowering of a renewable electric power generation
4 facility existing on or before January 1, 2025, when such
5 repowering requires the issuance of any new permits, or
6 amendments to existing permits, from a local authority.

7 16. a. A local authority within one hundred twenty calendar
8 days of receiving an application requesting approval, rezoning,
9 or a special or conditional use permit for a renewable electric
10 power generation facility, or modification of an approved
11 siting, rezoning, or special or conditional use permit, shall
12 comply with the following provisions:

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

1 considerations a local authority may not consider according to
2 this section.

3 (2) Make its final decision to approve or disapprove the
4 application.

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

6 b. A local authority must approve, approve with
7 modifications, or deny an application requesting approval,
8 rezoning, or a special or conditional use permit for a
9 renewable electric power generation facility or modification
10 of an approved rezoning or special or conditional use permit
11 within one hundred twenty days of the submission of an
12 application.

13 c. Denial of an application for approval, rezoning, or a
14 special or conditional use permit by a local authority must
15 be based on substantial evidence in the record of material
16 noncompliance with one or more specific provisions of this
17 section or regulations of local authorities that are not
18 inconsistent with this section. An appeal of such a denial by
19 an adversely affected party may be brought by certiorari as
20 provided in sections 335.18 and 335.19. The reviewing court
21 shall expedite the proceeding to the extent practicable.

22 17. a. A local authority shall not adopt regulations
23 that explicitly or implicitly disallow a renewable electric
24 power generation facility from being developed or operated
25 in any district zoned to allow agricultural or industrial
26 use. A local authority may not prohibit or otherwise limit
27 renewable electric power generation facility development
28 based on corn suitability rating as calculated using the
29 methodology recognized by the Iowa state university of science
30 and technology. A local authority may not limit the size of
31 any specific project or create caps on projects based on total
32 land mass within the local jurisdiction.

33 b. A local authority may place one temporary moratorium
34 for up to six months on the installation of a wind energy
35 conversion facility for the purpose of adopting new regulations

1 that are consistent with this section. All new, revised,
2 or amended ordinances or regulations pertaining to solar or
3 solar energy conversion facilities shall only be prospectively
4 applied.

5 c. Nothing in this section requires a local authority
6 to adopt standards for approval of renewable electric power
7 generation facilities.

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

13 EXPLANATION

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

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

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

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

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

35 The bill requires a local authority to utilize reasonable

1 estimates for application approval costs and prohibits the
2 local authority from requiring the facility owner to pay for
3 administration or road work that is not directly attributable
4 to the approval and construction of the facility. A local
5 authority shall not prohibit or regulate a facility testing the
6 suitability of a facility placement. Any regulations enacted
7 after the application for a facility permit shall not limit the
8 construction, operation, or maintenance of that facility. A
9 local authority shall not prohibit an affected landowner or
10 other entity from waiving requirements by conveyance of an
11 easement.

12 The bill provides that a local authority may require a
13 facility that is not owned or operated by a public utility
14 regulated by the Iowa utilities commission to file a
15 decommissioning plan including certain measures. The local
16 authority is prohibited from requiring a facility to provide a
17 revision or amendment of a decommissioning plan.

18 The bill requires a facility to be presumed abandoned if
19 the facility has not been in operation for 24 months, with
20 some exceptions. The owner of the abandoned facility is
21 responsible for removing the facility and is subject to any
22 other reasonable conditions in the decommissioning plan if
23 applicable.

24 The bill shall not apply to a wind energy conversion facility
25 with a nameplate capacity of 25 or more megawatts and that has
26 applied for certification under Code chapter 476A, a facility
27 that is currently operating or has applied for certification
28 before the enactment of the bill, or the repowering of a
29 facility existing on or before January 1, 2025, subject to
30 certain conditions.

31 The bill requires a local authority to approve a request
32 by a facility if the request is in compliance with the bill.
33 A local authority shall issue a decision on a request by a
34 facility within 120 days of the request submission. The denial
35 of a request shall be supported by substantial evidence of

1 noncompliance by the facility.

2 The bill prohibits a local authority from disallowing the
3 development of a facility in an agricultural or industrial
4 district. The bill provides that a local authority may not
5 prohibit or otherwise limit renewable electric power generation
6 facility development based on corn suitability rating as
7 calculated using the methodology recognized by the Iowa state
8 university of science and technology. The bill prohibits a
9 local authority from limiting the size of any specific project
10 or creating caps on projects based on total land mass within
11 the local jurisdiction.

12 The bill allows a local authority to place one temporary
13 moratorium for up to six months on the installation of a
14 wind energy conversion facility for the purpose of adopting
15 new regulations that are consistent with the bill. The bill
16 provides that all new, revised, or amended ordinances or
17 regulations pertaining to solar or solar energy conversion
18 facilities shall only be prospectively applied.

19 The bill expounds that a local authority is not required
20 to adopt standards for approval of renewable electric power
21 generation facilities; however, a local authority with existing
22 siting standards in effect on or after the effective date
23 of the bill that do not comply with the bill must amend the
24 standards to comply with the bill by December 31, 2025.