

HOUSE BILL No. 2460

By Committee on Wildlife, Parks and Tourism

2-11

9 AN ACT concerning industrial windpower electric generation facilities;
10 relating to standards for operation.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) Industrial windpower electric generation facilities with
14 a capacity greater than 50 megawatts or with combined turbine powers,
15 or both, and rotor heights exceeding 200 feet, shall not operate in the
16 state of Kansas without the following:

17 (1) A letter of determination from the state corporation commission
18 stating that the windpower electric generation facility project is consistent
19 with siting guidelines established by the the Kansas renewable energy
20 workgroup, as approved by the executive committee of the Kansas re-
21 newable energy workgroup on February 26, 2003; and

22 (2) a letter of determination from the Kansas department of wildlife
23 and parks that the windpower electric generation facility project is con-
24 sistent with the position of the Kansas department of wildlife and parks
25 statement signed by the secretary of the Kansas department of wildlife
26 and parks on December 2, 2004, and that such project shall not result in
27 serious, permanent and irreparable damage to wildlife or ecosystems.

28 (b) The owner of an industrial windpower electric generation facility
29 shall, at such owner's expense, submit no later than 30 days before com-
30 mencement of the project for approval to the county in which such project
31 is located and to the state corporation commission:

32 (1) A letter of credit;

33 (2) proof of a cash escrow account; and

34 (3) a performance bond or other form of security which shall be ap-
35 proved by the county in which the industrial windpower electric gener-
36 ation project is located and the state corporation commission. The secu-
37 rity shall be in favor of the county where such project is located or the
38 state corporation commission and shall be used for the purposes of de-
39 commissioning and reclamation of such site. Such security shall be in an
40 amount equal to 100% of the estimated decommissioning and reclamation
41 costs and shall provide for an annual adjustment of the amount of the
42 security based on the annual rate of inflation. Such amount shall be de-
43 termined by the board of county commissioners located within the in-

1 industrial windpower electric generation project county and the state cor-
2 poration commission. The security shall not be canceled, released or in
3 any way terminated without prior approval by the county in which the
4 industrial windpower electric generation project is located and the state
5 corporation commission and shall be maintained and continued in force
6 until the decommissioning and site reclamation has been completed and
7 paid for. If the county in which such project is located and the state
8 corporation commission determine the security is insufficient, then an-
9 other security may be required. Such security shall be written so as to
10 survive any sale or transfer of the turbines and the property on which
11 such project is located or the insolvency of the owner of such project.
12 The security shall apply to all successors and assigns of the project owner.
13 The entity providing such security shall be authorized by the state of
14 Kansas to provide such security.

15 (c) An individual turbine shall be considered to have been abandoned
16 when the turbine is incapable of producing more than 20% of the average
17 amount of electricity produced by such turbine in comparable previous
18 time periods (adjusted for actual wind conditions), as determined by the
19 county planning and development department located in the industrial
20 windpower electric generation project county, for a period of at least six
21 consecutive months and no demonstrated viable plan to restore the equip-
22 ment to operating condition exists. An entire project shall be considered
23 to have been abandoned when at least 50% of the individual turbines
24 have not produced electricity for a period of at least six consecutive
25 months and no demonstrated viable plan to restore the equipment to
26 operating condition exists. An extension of the six-month time period may
27 be granted by the board of county commissioners located in the industrial
28 windpower electric generation project county or the state corporation
29 commission upon the presentation of sufficient justification by the owner
30 of such project.

31 (d) Nothing in this act shall preclude the rights of counties to imple-
32 ment zoning requirements that include these standards or provide for
33 siting requirements that are more strict in dealing with the resources of
34 statewide importance that are the subject of this act and nothing in this
35 act shall preclude counties from prohibiting industrial windpower electric
36 generation facilities.

37 Sec. 2. This act shall take effect and be in force from and after its
38 publication in the statute book.