

SENATE BILL No. 173

By Committee on Federal and State Affairs

2-3

1 AN ACT concerning energy; relating to the development of certain wind
2 and solar electric generation resources; establishing requirements for
3 the conveyance of leases and easements relating thereto; requiring a
4 county to approve the development of a commercial wind or solar
5 energy facility before the conveyance of any such lease or easement;
6 amending K.S.A. 2024 Supp. 58-2272 and repealing the existing
7 section.
8

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

10 Section 1. K.S.A. 2024 Supp. 58-2272 is hereby amended to read as
11 follows: 58-2272. (a) Every instrument that conveys any estate or interest
12 created by any lease or easement involving wind or solar resources and
13 technologies to produce and generate electricity shall include:

14 (1) A description of the real property subject to the easement and a
15 description of the real property benefitting from the wind or solar lease or
16 easement;

17 (2) a description of the vertical and horizontal angles, expressed in
18 degrees, and distances from the site of the wind or solar power system in
19 which an obstruction to the wind or solar system is prohibited or limited;

20 (3) all terms or conditions under which the lease or easement is
21 granted or may be terminated, except that if the instrument is recorded
22 under K.S.A. 58-2221, and amendments thereto, any compensation
23 received by the owner of the real property may be excluded; and

24 (4) any other provisions necessary or desirable to execute the
25 instrument.

26 (b) No person other than the surface owner of a tract of land shall
27 have the right to use such land for the production of wind or solar
28 generated energy unless granted such right by the lawful owner of the
29 surface estate by lease or easement for a definite period.

30 (c) The provisions of subsection (b) shall not apply to any lease or
31 easement filed of record prior to July 1, 2011, with the register of deeds of
32 the county in which the tract is located.

33 (d) *Any instrument executed between parties on or after July 1, 2025,*
34 *that conveys any estate or interest created by any lease or easement*
35 *involving the development, construction and operation of a commercial*
36 *solar energy facility or commercial wind energy facility shall not be in*

1 *force or effect or binding upon either party until the date that the board of*
2 *county commissioners of the affected county enters into an agreement*
3 *relating to the construction of the commercial solar energy facility or*
4 *commercial wind energy facility as follows:*

5 *(1) For any county that has adopted zoning regulations pursuant to*
6 *K.S.A. 12-741 et seq. or 19-256 et seq., and amendments thereto, the date*
7 *of such agreement shall be the date that such county issues a:*

8 *(A) Building, zoning or development permit that authorizes the*
9 *construction of the facility pursuant to such zoning regulations; or*

10 *(B) conditional or special use permit that authorizes the construction*
11 *of the facility notwithstanding such zoning regulations; or*

12 *(2) for any county that has not adopted zoning regulations pursuant*
13 *to K.S.A. 12-741 et seq. or 19-256 et seq., and amendments thereto, the*
14 *date of such agreement shall be the date that the county enters into a*
15 *development agreement with the facility owner that authorizes the facility*
16 *owner to construct such facility and imposes conditions relating thereto.*

17 *(e) Nothing in this section shall be construed to affect any otherwise*
18 *enforceable restriction on the use of any tract of land for the production of*
19 *wind or solar energy whether or not such restriction is in the form of an*
20 *easement for a definite term.*

21 *(f) As used in this section:*

22 *(1) "Commercial solar energy facility" means any device or assembly*
23 *of devices and supporting facilities that has a nameplate capacity of at*
24 *least one megawatt and uses solar energy to generate electricity for the*
25 *primary purpose of wholesale or retail sale of electricity.*

26 *(2) "Commercial wind energy facility" means any device or assembly*
27 *of devices and supporting facilities that has a nameplate capacity of at*
28 *least one megawatt and uses kinetic energy from the wind to generate*
29 *electricity for the primary purpose of wholesale or retail sale of electricity.*

30 *(3) "Facility owner" means any person who has a direct ownership*
31 *interest in or who is acting as the developer or operator of a commercial*
32 *solar energy facility or commercial wind energy facility.*

33 *Sec. 2. K.S.A. 2024 Supp. 58-2272 is hereby repealed.*

34 *Sec. 3. This act shall take effect and be in force from and after its*
35 *publication in the statute book.*