

Severance of Wind and Solar Rights; Markings on Anemometer Towers

SB 227 addresses two property issues involving renewable energy: preventing the permanent severance of wind and solar rights from a tract of land, and establishing daylight marking requirements for anemometer towers. (Anemometers are instruments for measuring and recording wind speed.)

Severance of Wind and Solar Rights

The bill amends the law concerning conveyance of real estate. The bill allows only the surface owner of a tract of land to use the land to produce wind- or solar-generated energy, unless the owner has entered into a lease or easement for those rights for a definite period. The requirement does not apply to leases filed before July 1, 2011. In addition, the requirement does not affect any otherwise enforceable restriction on the use of the land for production of wind or solar energy, nor does it prohibit conservation easements.

The bill also requires any conveyance for solar resources to include the same types of information that must be included in an instrument conveying interest in wind resources.

Visibility Marking Requirements for Anemometer Towers

The bill requires specific daylight visibility markings for any anemometer tower that is at least 50 feet in height and that is located outside the corporate boundaries of a city, provided the appearance of the tower is not otherwise mandated by state or federal law.

The following markings are required at the time the tower is erected: the top one-third of the anemometer tower must be painted in equal, alternating bands of aviation orange and white; two marker balls must be attached to and evenly spaced on each outside guy wire; and one or more seven-foot safety sleeves must be placed at each anchor point.

The requirements apply to any anemometer tower erected on or after July 1, 2011. Towers erected before that date are required to be marked within two years of the effective date of the act. Failure by an owner of an anemometer tower to properly mark the tower is a class C nonperson misdemeanor.