



Sen. John M. Sullivan

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1 AMENDMENT TO SENATE BILL 1469

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1469, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5 "Section 1. Short title. This Act may be cited as the Wind  
6 Energy Facilities Construction and Deconstruction Act.

7 Section 5. Purposes. The primary purposes of this Act is to  
8 promote the State's welfare by protecting landowners during the  
9 construction and deconstruction of commercial wind energy  
10 facilities.

11 Section 10. Definitions. As used in this Act:

12 "Commercial wind energy facility" means a wind energy  
13 conversion facility of equal or greater than 500 kilowatts in  
14 total nameplate generating capacity that has not already been  
15 constructed or permitted by decision of a county or

1 municipality prior to the effective date of this Act.

2 "Commercial wind energy operator" means a private  
3 commercial enterprise that owns or operates a commercial wind  
4 energy facility of equal to or greater than 500 kilowatts in  
5 total nameplate capacity.

6 "Deconstruction" means the removal of a wind energy  
7 generation facility from the property of a landowner and the  
8 restoration of that property as provided in the agricultural  
9 impact mitigation agreement.

10 "Department" means the Illinois Department of Agriculture.

11 "Landowner" means any person with an ownership interest in  
12 property (i) that is used for agricultural purposes and (ii)  
13 that is party to an underlying agreement.

14 "Underlying agreement" means the written or oral agreement  
15 with a landowner including, but not limited to, an easement,  
16 option, lease, or license, under the terms of which another  
17 person has constructed, constructs, or intends to construct a  
18 commercial wind energy facility on the property of the  
19 landowner.

20 "Wind turbine" means a wind turbine of equal to or greater  
21 than 500 kilowatts in total nameplate generating capacity.

22 Section 15. Agricultural impact mitigation agreement.

23 (a) An owner or operator of a commercial wind energy  
24 facility located on landowner property shall enter into an  
25 agricultural impact mitigation agreement with the Department

1 outlining construction and deconstruction standards and  
2 policies designed to preserve the integrity of any agricultural  
3 land that is impacted by commercial wind energy facility  
4 construction and deconstruction. This requirement does not  
5 apply to commercial wind energy facilities already constructed  
6 or permitted by decision of a county or municipality prior to  
7 the effective date of this Act.

8 (b) The agricultural impact mitigation agreement shall  
9 address such items as access roads, construction staging and  
10 storage areas, excavation and backfill, protection of  
11 agricultural drainage tiles, wind turbine foundations, wind  
12 turbine erection, restoration of agricultural land affected by  
13 all construction and deconstruction, indemnification of  
14 landowners, monitoring, and remediation.

15 (c) The agricultural impact mitigation agreement shall be  
16 entered into prior to the construction of the commercial wind  
17 energy facility. The agricultural impact mitigation agreement  
18 is binding on any subsequent wind energy operator that takes  
19 ownership of the commercial wind energy facility that is the  
20 subject of the agreement.

21 (d) The Department shall adopt rules that are necessary and  
22 appropriate for the implementation and administration of  
23 agricultural impact mitigation agreements as required under  
24 this Act.

25 Section 20. Deconstruction activities.

1           (a) The commercial wind energy operator is responsible for  
2 deconstruction of the commercial wind energy facility and for  
3 all costs associated with deconstruction of that facility and  
4 associated facilities.

5           (b) A commercial wind energy facility is presumed to be at  
6 the end of its useful life if (i) the commercial wind energy  
7 operator fails, for a period of 18 consecutive months, to  
8 operate a commercial wind facility for the purpose of which it  
9 was designed and installed and (ii) the commercial wind energy  
10 operator fails, for a period of 6 consecutive months, to pay  
11 the landowner moneys owed to him or her in accordance with the  
12 underlying agreement.

13           (c) The commercial wind energy operator shall begin  
14 deconstruction of the commercial wind energy facility within 8  
15 months after the time the facility or turbine reaches the end  
16 of its useful life. Deconstruction must be completed within 18  
17 months after the commercial wind energy facility reaches the  
18 end of its useful life.

19           (d) No less than 120 days prior to the beginning of  
20 construction, owners or operators of commercial wind energy  
21 facilities shall file with the Department a plan that includes:

22                 (1) a copy of the agricultural impact mitigation  
23 agreement entered into by the owner or operator and the  
24 Department;

25                 (2) the estimated deconstruction cost per turbine, in  
26 current dollars at the time of filing, for the proposed

1 commercial wind energy facility; and

2 (3) a comprehensive detailed description describing  
3 how the commercial wind energy owner or operator plans to  
4 pay for the deconstruction of the commercial wind energy  
5 facility.

6 The plan shall be prepared by an independent third party at  
7 the commercial wind energy operator's expense. The plan may be  
8 filed in separate portions, each also no less than 120 days  
9 prior to construction, involving each phase in which the  
10 commercial wind energy facility is to be constructed, if the  
11 facility is to be constructed in phases commencing at periods  
12 of more than one year following each other. The Department  
13 shall enter an order approving, modifying, or disapproving that  
14 plan.

15 (e) No less than 120 days prior to the beginning of  
16 construction of any commercial wind energy facility, the  
17 commercial wind energy owner or operator shall file with the  
18 Department a reclamation bond that is acceptable to the  
19 Department to cover the anticipated costs of deconstruction of  
20 the commercial wind energy facility or any turbine thereon. The  
21 reclamation bond shall not release the surety from liability  
22 until the bond is replaced. In determining the anticipated  
23 costs of deconstruction, the Department shall take into  
24 account, among other things, the information provided under  
25 subsection (d), the number of wind turbines and related  
26 commercial wind energy facilities involved, the original

1 construction costs of the commercial wind energy facilities,  
2 the size and capacity of the wind turbines, the salvage value  
3 of the commercial wind energy facilities, and the construction  
4 method and techniques for the turbines and other commercial  
5 wind energy facilities. The Department shall examine the  
6 reclamation bond and enter an order approving, modifying, or  
7 rejecting the reclamation bond. The Department shall  
8 reevaluate the anticipated costs of deconstruction of any  
9 commercial wind energy facility every 5 years after its initial  
10 assessment or if there is a change in commercial wind energy  
11 facility's owner, operator, or reclamation bond, and, based on  
12 any reevaluation, require changes in the level of reclamation  
13 bond required from the commercial wind energy facility owner or  
14 operator. If the Department is unable to its satisfaction to  
15 perform any investigations necessary to enter an order  
16 approving any deconstruction plan filed by a commercial wind  
17 energy facility owner or operator, then the Department may  
18 select persons independent of the commercial wind energy  
19 facility owner or operator to conduct any necessary  
20 investigations and the commercial wind energy facility owner or  
21 operator shall bear the cost of any such investigations.

22 (f) If the commercial wind energy operator does not  
23 complete deconstruction, the Department may take such action as  
24 necessary to complete deconstruction, including drawing upon  
25 the financial assurance required in subsection (e).

26 (g) If there is a change in ownership of the wind energy

1 facility, the commercial wind energy operator assuming  
2 ownership of the facility shall provide notice within 30 days  
3 to the Department of such change and the existing financial  
4 assurance requirements for the facility as required in  
5 subsection (e) will apply to the new operator.

6 (h) The Department has no authority or responsibility for  
7 commercial wind facilities that have already been constructed  
8 or permitted by decision of a county or municipality prior to  
9 the effective date of this Act.

10 (i) The Department shall adopt rules that are necessary and  
11 appropriate for the implementation and administration of  
12 deconstruction activities as required under this Act.

13 (j) In addition to any authority granted the Department  
14 under this Act, the Department is also authorized to impose  
15 reasonable filing fees and penalties. Fees and penalties  
16 collected under this Act shall be deposited into the Wind  
17 Energy Administration Fund, a special fund in the State  
18 Treasury, to be used by the Department to fund the Department's  
19 compliance with the obligations imposed by this Section.

20 Section 25. The State Finance Act is amended by adding  
21 Section 5.826 as follows:

22 (30 ILCS 105/5.826 new)

23 Sec. 5.826. The Wind Energy Administration Fund.

1           Section 99. Effective date. This Act takes effect upon  
2    becoming law.".