

HOUSE BILL NO. 939

INTRODUCED BY K. ZOLNIKOV, B. LER, G. PARRY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR SETBACKS FOR WIND TURBINE GENERATORS; ESTABLISHING A WIND TURBINE GENERATOR DEICING STANDARD; AMENDING SECTION 70-17-406, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Required setback for wind turbine generators. After [the effective date of this act], a wind turbine generator built pursuant to a wind energy agreement as described in 70-17-406 may not be constructed if the wind turbine tower is 500 feet or more in height, as measured from the natural ground level at the base of the tower to the tip of the turbine rotor blade, and if the base of the tower is located at a distance of less than 1,500 feet from an occupied residence that is subject to a wind energy agreement as described in 70-17-406 with the owner of the wind turbine generator, unless the setback distance is approved by the owner of the real property.

NEW SECTION. Section 2. Wind turbine generator deicing -- requirement. A wind turbine generator constructed after [the effective date of this act] that is 500 feet or more in height, as measured from the natural ground level at the base of the tower to the tip of the turbine rotor blade, and is located within a distance of 2,500 feet from an occupied residence in accordance with [section 1] may not exceed 10% of the maximum turbine rotor blade speed during the turbine rotor blade deicing process, unless the rotor blade speed is approved by the owner of the real property.

Section 3. Section 70-17-406, MCA, is amended to read:

"70-17-406. Wind energy agreement -- contents and requirements -- notarization -- fee. (1) A wind energy agreement executed after ~~April 21, 2014~~ January 1, 2026, must contain but is not limited to:

(a) the names and addresses of the parties to the wind energy agreement;

1 (b) a legal description of the real property subject to the wind easement and contained in the wind
2 energy agreement;

3 (c) the obligations of the owner of the real property to ensure the undisturbed flow of wind on and
4 over the real property, including restrictions placed upon vegetation, structures, and other objects that would
5 impair or obstruct the wind flow on and over the real property. Structures do not include equipment necessary
6 to access minerals as they relate to the rights belonging to or the dominance of the mineral estate pursuant to
7 70-17-408.

8 (d) a specified term including the date on which the wind energy agreement or wind easement
9 terminates;

10 (e) provisions to compensate the owner of the real property for the wind easement;

11 (f) provisions ensuring that the owner of the real property is not liable for any property tax
12 associated with the wind energy project or other equipment related to the development of the wind energy
13 project during the term of the wind energy agreement;

14 (g) provisions addressing property owner and wind energy developer liability during the
15 construction and operation of the wind energy project and equipment;

16 (h) provisions obligating the wind energy developer to comply with federal, state, and local laws
17 and regulations; and

18 (i) conditions upon which the wind energy agreement may be terminated prior to its termination
19 date.

20 (2) A wind energy agreement must be notarized.

21 (3) If the terms of the wind energy agreement do not contain the requirements listed in subsection
22 (1), a court may void the wind energy agreement or order any relief allowed by law.

23 (4) (a) Within 30 days after the agreement has been notarized and prior to construction, a wind
24 energy agreement and a micrositing map must be filed with the department of environmental quality, along with
25 a \$100 filing fee, for energy development tracking purposes.

26 (b) A wind energy agreement and a micrositing map filed with the department of environmental
27 quality may be amended prior to or after the completion of the wind turbine generator construction."
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