

SENATE BILL NO. 2244

Introduced by

Senators Erbele, Andrist, Wardner

Representatives Kempenich, Monson, Wikenheiser

1 A BILL for an Act to provide for the development and operation of wind turbines by public
2 school districts; to create and enact a new subsection to section 15.1-02-04 and a new
3 subsection to section 15.1-09-33 of the North Dakota Century Code, relating to the duties of the
4 superintendent of public instruction and powers of school boards; and to amend and reenact
5 subsection 5 of section 15.1-36-01 and subsection 4 of section 21-03-06 of the North Dakota
6 Century Code, relating to school construction projects and school district bonds.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1.** A new subsection to section 15.1-02-04 of the North Dakota Century Code
9 is created and enacted as follows:

10 Shall approve joint powers agreements between and among school districts to
11 develop, construct, and operate wind turbines.

12 **SECTION 2.** A new subsection to section 15.1-09-33 of the North Dakota Century Code
13 is created and enacted as follows:

14 Develop, construct, and operate wind turbines.

15 **SECTION 3. AMENDMENT.** Subsection 5 of section 15.1-36-01 of the North Dakota
16 Century Code is amended and reenacted as follows:

17 5. For purposes of this chapter, "facility" includes a public school parking lot, public
18 school athletic complex, wind turbine, or any other improvement to real property
19 owned by the school district.

20 **SECTION 4. AMENDMENT.** Subsection 4 of section 21-03-06 of the North Dakota
21 Century Code is amended and reenacted as follows:

22 4. By ~~any~~ a public school district, or the school district of the city of Fargo, to
23 purchase, erect, enlarge, and improve school buildings and teacherages, to
24 acquire sites therefor and for playgrounds, to furnish and equip the same with heat,

1 light, and ventilation or other necessary apparatus, to pay advance rentals to the
2 state school construction fund, ~~and also~~ to purchase schoolbus equipment which
3 must meet the standards ~~set up~~ established by the ~~state~~ superintendent of public
4 instruction and the director of the department of transportation, and develop,
5 construct, and operate wind turbines.

6 **SECTION 5. School district wind turbines - Purpose.** It is the policy of this state to
7 encourage the development, construction, and operation of wind turbines by school districts in
8 order to conserve our finite energy resources and to provide for their most efficient use.

9 **SECTION 6. Definitions.** As used in this Act, unless the context otherwise requires:

- 10 1. "Commission" means the public service commission.
- 11 2. "Electric utility" includes electric public utilities, electric cooperatives, and municipal
12 electric utilities.
- 13 3. "Wind turbine" includes a wind turbine; land, systems, buildings, or improvements
14 that are located at the wind turbine site and are necessary or convenient to the
15 construction, completion, or operation of the wind turbine; and transmission or
16 distribution facilities necessary to conduct the energy produced by the wind turbine
17 to users located at or near the wind turbine.

18 **SECTION 7. School district wind turbines - Joint powers agreements.**
19 Notwithstanding any other provision of law, school districts may enter into joint powers
20 agreements to develop, construct, and operate wind turbines. Notwithstanding any other
21 provision of law, a school district may operate a wind turbine onsite or offsite at a remote
22 location.

23 **SECTION 8. Net metering.** School districts operating wind turbines under this Act are
24 entitled to net energy billing whereby the output from the qualifying facility reverses the electric
25 meter used to measure sales from the electric utility to the school district. The purchasing
26 electric utility shall file an annual report of total monthly energy produced with the commission.
27 The purchasing electric utility may recover metering costs associated with production
28 monitoring from the school district.

29 **SECTION 9. Interconnection costs.**

- 30 1. Each school district operating a wind turbine under this Act is obligated to pay any
31 interconnection costs which the commission may assess against the school district

1 on a nondiscriminatory basis with respect to other customers with similar load
2 characteristics.

3 2. The commission shall determine the manner for payments of interconnection costs,
4 which may include reimbursement over a reasonable period of time.

5 **SECTION 10. Exceptions and limitations on required purchases.** The commission
6 may not require an electric utility to purchase or wheel electricity from a wind turbine under this
7 Act unless the facility is owned or operated by a school district that meets both of the following:

8 1. Is not primarily engaged in the business of producing or selling electricity, gas, or
9 useful thermal energy other than electricity sold solely from a wind turbine.

10 2. Does not sell electricity to residential users other than the tenants or the owner or
11 operator of the facility.

12 **SECTION 11. Exemption from excess capacity.** Capacity purchased from a school
13 district owning or operating a wind turbine may not be included in a calculation of an electric
14 utility's excess generating capacity for ratemaking purposes.

15 **SECTION 12. Fees - Deposit in coal development trust fund.** The commission shall
16 direct all electric utilities to remit to the state treasurer annually eighty-five one-thousandths of
17 one percent of the total gross operating revenues of the electric utility during the calendar year.
18 The state treasurer shall deposit the remittances in the coal development trust fund established
19 pursuant to section 21 of article X of the of the Constitution of North Dakota and subsection 1 of
20 section 57-62-02.

21 **SECTION 13. Alternate energy purchase programs.**

22 1. Beginning January 1, 2004, an electric utility, whether or not rate-regulated by the
23 commission, shall offer an alternate energy purchase program to its customers,
24 based on energy produced by wind turbines owned or operated by school districts
25 in this state.

26 2. The commission shall require electric utilities to file plans for wind turbine energy
27 purchase programs offered pursuant to this section.

28 3. Rate-regulated electric utilities shall file plans for wind turbine energy purchase
29 programs that allow customers to contribute voluntarily to the development of wind
30 turbines owned or operated by school districts.

- 1 4. Electric utilities that are not rate-regulated shall offer wind turbine energy purchase
- 2 programs at rates determined by their governing authority and shall file this
- 3 information with the commission for informational purposes only.
- 4 5. An electric utility shall notify consumers of its wind turbine energy purchase
- 5 program and any proposed modifications of the program at least sixty days before
- 6 implementation of the program or any modification of the program.
- 7 6. A consumer-owned electric utility may apply to the commission for a waiver under
- 8 this section, and the commission, for good cause, may grant the waiver.