

March 12, 2007

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1317

Page 1, line 1, after the first "to" insert "create and enact a new chapter to title 49 of the North Dakota Century Code, relating to the decommissioning of commercial wind energy facilities; to"

Page 1, after line 5, insert:

**"SECTION 1.** A new chapter to title 49 of the North Dakota Century Code is created and enacted as follows:

**Definitions.** In this chapter, unless the context otherwise requires:

1. "Commercial wind energy conversion facility" means a wind energy conversion facility of equal to or greater than five hundred kilowatts in total nameplate generating capacity.
2. "Commission" means the public service commission.
3. "Wind turbine" means a wind turbine of equal to or greater than five hundred kilowatts in total nameplate generating capacity.

**Jurisdiction of the commission for decommissioning of commercial wind energy conversion facilities.** The commission has continuing jurisdiction and authority over all persons and property necessary to enforce this chapter. The commission may:

1. Investigate all methods and practices of commercial wind energy conversion facilities, subject to this chapter.
2. Require the filing and determine the amount of a bond or other assurance, conditioned upon the full compliance with this chapter and the rules and orders of the commission. The commission may accept under the terms and conditions as the commission may prescribe a surety bond, collateral bond, self-bond, escrow account, or any alternative form of security or other financial assurance, or combination thereof, by which an owner or operator assures faithful performance of all requirements of this chapter and the rules and orders of the commission.
3. Regulate the decommissioning of a commercial wind energy conversion system.
4. Adopt and enforce rules and orders to effectuate the purposes and the intent of this chapter.

**Decommissioning of commercial wind energy conversion facilities.**

1. The owner and operator, at its expense, shall complete decommissioning of the commercial wind energy conversion facility, or individual wind turbines, within twelve months after the end of the useful life of the commercial wind energy conversion facility or individual wind turbines. The commercial wind energy conversion facility or individual wind turbine is presumed to be at the end of its useful life if no electricity is generated for a continuous period of twelve months unless a plan is developed and

submitted to the commission outlining the steps and schedule for returning the turbine to service.

2. Decommissioning of commercial wind energy conversion facilities includes removal of all physical material pertaining to the wind energy conversion facility to a depth of forty-eight inches [1.219 meters] beneath the soil surface and restoration of the disturbed area to substantially the same physical condition that existed immediately before construction.
3. Disturbed earth must be graded and reseeded, unless the landowner requests in writing that the access roads or other land surface areas not be removed and restored to substantially the same physical condition that existed immediately before construction.
4. The commission may require a performance bond to provide for the decommissioning and removal of a commercial wind energy conversion facility. The performance bond may be in the form of a surety bond, collateral bond, self-bond, cash, or any alternative form of security or other financial assurance as prescribed by the commission by rule. The commission shall consider the anticipated life of the project, the estimated decommissioning costs in current dollars, the method and schedule for updating the costs of decommissioning and restoration, the method of ensuring that funds will be available for decommissioning and restoration, and the anticipated manner in which the project will be decommissioned and the site restored when adopting rules that detail the bond requirements and when determining the amount of any required bond.
5. If the commercial wind energy conversion facility owner or operator does not complete decommissioning, the commission may take any action necessary to complete decommissioning, including requiring forfeiture of the bond. The execution of a participating landowner agreement constitutes agreement and consent of the parties to the agreement, their respective heirs, successors, and assigns, that the commission may take such action as may be necessary to implement the decommissioning plan, including the exercise by the commission, commission staff, and contractors of the right of ingress and egress for the purpose of decommissioning the commercial wind energy conversion facility.
6. An easement or lease between a landowner and the owner or operator of a commercial wind energy facility or wind turbine may contain provisions for decommissioning that are more restrictive than this chapter."

Page 1, replace lines 9 through 22 with:

**"Taxable valuation of centrally assessed wind turbine electric generators.**

A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more, on which construction is completed before January 1, 2011, must be valued at three percent of assessed value to determine taxable valuation of the property. ~~However, a~~ except:

1. A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more, for which a purchased power agreement has been executed after April 30, 2005, and before January 1, 2006, and construction is ~~begun~~ completed after April 30, 2005, and before July 1, 2006, must be valued at one and one-half percent of assessed value to determine taxable valuation of the property ~~and this reduced valuation applies for that property~~ for the duration of the initial purchased power agreement for that generation unit; and

2. A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more, on which construction is completed after June 30, 2006, and before January 1, 2011, must be valued at one and one-half percent of assessed value to determine taxable valuation of the property."

Page 1, line 23, replace "This" with "Section 2 of this"

Renumber accordingly