

HOUSE BILL NO. 1512

Introduced by

Representatives Novak, Fisher, Heinert, Koppelman, Strinden

Senators Beard, Boehm, Kessel, Magrum, Patten

1 A BILL ~~for an Act to create and enact a new subsection to section 49-22-08, a new subsection~~
 2 ~~to section 49-22-09, and two new subsections to section 49-22-16 of the North Dakota Century~~
 3 ~~Code, relating to exclusion areas and factors to consider when evaluating applications and~~
 4 ~~designation of electric energy conversion facility sites, and public hearings; and to amend and~~
 5 ~~reenact subsection 4 of section 49-22-05.1 of the North Dakota Century Code, relating to~~
 6 ~~electric energy conversion facility exclusion areas.~~ for an Act to provide for a legislative
 7 management study relating to statutory provisions governing certification of site compatibility for
 8 electric energy conversion facilities.

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

10 ~~**SECTION 1. AMENDMENT.** Subsection 4 of section 49-22-05.1 of the North Dakota~~
 11 ~~Century Code is amended and reenacted as follows: _____~~
 12 ~~_____ 4. _____ Areas less than one and one-tenth times the height of the turbine from the property~~
 13 ~~line of a nonparticipating landowner and less than three times the height of the turbine~~
 14 ~~or more from an inhabited rural residence of a nonparticipating landowner, must be~~
 15 ~~excluded in the consideration of a site for a wind energy conversion area, unless a~~
 16 ~~variance is granted. The commission shall designate as an exclusion area any~~
 17 ~~geographical areas established as an exclusion zone by a county commission under~~
 18 ~~section 49-22-16. The commission may grant a variance if an authorized~~
 19 ~~representative or agent of the permittee, the nonparticipating landowner, and affected~~
 20 ~~parties with associated wind rights file a written agreement expressing the support of~~
 21 ~~all parties for a variance to reduce the setback requirement in this subsection. A~~
 22 ~~nonparticipating landowner is a landowner that has not signed a wind option or an~~
 23 ~~easement agreement with the permittee of the wind energy conversion facility as~~
 24 ~~defined in chapter 17-04. A local zoning authority may require setback distances~~

1 greater than those required under this subsection. For purposes of this subsection,
2 "height of the turbine" means the distance from the base of the wind turbine to the
3 turbine blade tip when it is in its highest position.

4 ~~— SECTION 2. A new subsection to section 49-22-08 of the North Dakota Century Code is
5 created and enacted as follows:~~

6 ~~Before a person submits an application for a certificate of site compatibility for an
7 electric energy conversion facility or secures any property leases for a proposed
8 electric energy conversion facility, the person shall notify each county in which any
9 part of the proposed electric energy conversion facility would be located. Within sixty
10 days of receiving notice and after providing thirty days notice of a public hearing to
11 county residents, the county commission of each impacted county:~~

12 ~~— a. Shall hold a public hearing to review the site location, needs of the operation and
13 company employees regarding roads, housing, and community facilities, and
14 county and community services;~~

15 ~~— b. Shall consider input from organized townships within the area of the proposed
16 electric energy conversion facility, the road plan, impact on the local economy,
17 impact on other electrical generation sources, impact on mineable lignite
18 deposits, and residential property use and rights; and~~

19 ~~— c. May designate exclusion zones for a proposed electric energy conversion facility
20 for areas in which placement of the electric energy conversion facility may
21 adversely impact the interests of the county, or require the commission condition
22 a certificate in a manner that alleviates mineral rights owners from the burden of
23 removing wind facilities before mineral rights are exercised.~~

24 ~~— SECTION 3. A new subsection to section 49-22-09 of the North Dakota Century Code is
25 created and enacted as follows:~~

26 ~~Upon receipt of notification from the person applying for a certificate indicating sixty
27 percent of the leases of the property within the footprint of the proposed electric
28 energy conversion facility subject to an easement under this chapter for the site are
29 owned by county residents, the commission may issue a certificate under this chapter.
30 For purposes of this subsection, "footprint" means the entire surface area within the
31 parameters of the wind farm.~~

1 — ~~SECTION 4. Two new subsections to section 49-22-16 of the North Dakota Century Code~~
2 ~~are created and enacted as follows:~~

3 ~~The commission may not issue a certificate of site compatibility under this section until~~
4 ~~the board of county commissions of each impacted county has held a public hearing~~
5 ~~under section 49-22-08.~~

6
7 ~~If the proposed electric energy conversion facility site is physically located on top of~~
8 ~~lignite reserves, the commission may not issue a certificate of site compatibility under~~
9 ~~this section.~~

10 **SECTION 1. LEGISLATIVE MANAGEMENT STUDY - ELECTRIC ENERGY**

11 **CONVERSION FACILITIES - SITE COMPATIBILITY.** During the 2023-24 interim, the legislative
12 management shall consider studying statutory provisions governing certification of site
13 compatibility for electric energy conversion facilities. The study must include a review of the
14 provisions of the North Dakota Century Code that allow the North Dakota public service
15 commission to issue a certificate of site compatibility for electric energy conversion facilities, the
16 certification process for site compatibility for electric energy conversion facilities, and the impact
17 of certifying site compatibility of electric energy conversion facilities in conjunction with
18 subsurface minerals rights for mineral owners or mineral lessees. The legislative management
19 shall report its findings and recommendations, together with any legislation necessary to
20 implement the recommendations, to the sixty-ninth legislative assembly.