



February 2, 2023

House Energy & Natural Resources Committee

Re: Oppose HB 1512

Chairman Porter and members of the committee,

Wind Industry of ND (WIND) is a coalition that advocates for the continued support of wind as one of North Dakota's many valuable natural resources.

We oppose HB 1512 for a variety of reasons.

First, Section 1 unnecessarily duplicates county zoning authority. A county already has the authority to create zoning districts where it would like to see certain types of development or not. The siting act does not preempt local zoning over wind projects. Counties already have the right to approve or deny a permit application for various established grounds. Further, the bill does not provide any criteria by which an exclusion zone could be established.

Second, Section 2 of the bill compromises property rights of landowners who want to lease land for a wind project by requiring multiple steps of government intervention beforehand. This is not required for pipelines. This is not required for electric transmission. And it's not required for oil, gas, or lignite extraction. It's not required for large commercial or industrial projects. And we don't believe it should be required for wind leases. If a landowner wants to lease property, they should be free to do so without government interference.

Additionally, holding a public hearing that considers everything contemplated in Section 2 of the bill will raise more questions than it will answer. How can the community assess the impact on roads, housing, and community facilities if the project has not yet been designed (because few or no leases have yet been secured)? Good communication with landowners, agencies, counties, townships, and stakeholders must occur for a project to ultimately be successful. PSC hearings already must be held under the current law. County zoning hearings already must be held under the current law. A project must have county zoning approval before it can be built. If a project developer does not communicate effectively or appropriately with the impacted communities and stakeholders, the developer does so at its own risk. Injecting additional hearings and processes before a project can be designed creates the exact uncertainty and frustration that the bill is trying to seemingly address.

Third, creating separate classes of landowners—landowners who are “county residents” and landowners who are not—is a questionable restriction of property rights that raises concerning legal questions. Why should government decide what a landowner chooses to do on their property? Why should a landowner have their rights taken away just because they live in the neighboring county? Other types of land use do not have similar restrictions. All landowners within a county, regardless of where they live, pay property taxes on the land they own to the county and therefore have rights to use their land for any legal purpose they deem appropriate.