

SENATE BILL No. 534

By Senator Wagle

2-9

9 AN ACT concerning industrial windpower electric generation facilities;
10 relating to standards for operation.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) Industrial windpower electric generation facilities with
14 a capacity greater than 50 megawatts or with combined turbine powers,
15 or both, and rotor heights exceeding 200 feet, shall not operate in the
16 state of Kansas without the following:

17 (1) A letter of determination from the state corporation commission
18 stating that the windpower electric generation facility project is consistent
19 with siting guidelines established by the the Kansas renewable energy
20 workgroup, as approved by the executive committee of the Kansas re-
21 newable energy workgroup on February 26, 2003; and

22 (2) a letter of determination from the Kansas department of wildlife
23 and parks that the windpower electric generation facility project is con-
24 sistent with the position of the Kansas department of wildlife and parks
25 statement signed by the secretary of the Kansas department of wildlife
26 and parks on December 2, 2004, and that such project shall not result in
27 serious, permanent and irreparable damage to wildlife or ecosystems.

28 (b) The owner of an industrial windpower electric generation facility
29 shall, at such owner's expense, submit no later than 30 days before com-
30 mencement of the project for approval to the county in which such project
31 is located and to the state corporation commission:

32 (1) A letter of credit;

33 (2) proof of a cash escrow account; and

34 (3) a corporate surety bond issued by a company authorized to do
35 business in the state of Kansas or such other form of security which shall
36 be approved by the county in which the industrial windpower electric
37 generation project is located and the state corporation commission. The
38 security shall be in favor of the county where such project is located or
39 the state corporation commission and shall be used for the purposes of
40 decommissioning and reclamation of such site. Such security shall be in
41 an amount equal to 100% of the estimated decommissioning and recla-
42 mation costs and shall provide for an annual adjustment of the amount
43 of the security based on the annual rate of inflation. Such amount shall

1 be determined by the board of county commissioners located within the
2 industrial windpower electric generation project county and the state cor-
3 poration commission. The security shall not be canceled, released or in
4 any way terminated without prior approval by the county in which the
5 industrial windpower electric generation project is located and the state
6 corporation commission and shall be maintained and continued in force
7 until the decommissioning and site reclamation has been completed and
8 paid for. If the county in which such project is located and the state
9 corporation commission determine the security is insufficient, then an-
10 other security may be required. Such security shall be written so as to
11 survive any sale or transfer of the turbines and the property on which
12 such project is located or the insolvency of the owner of such project.
13 The security shall apply to all successors and assigns of the project owner.
14 The entity providing such security shall be authorized by the state of
15 Kansas to provide such security.

16 (c) An individual turbine shall be considered to have been abandoned
17 when the turbine is incapable of producing more than 20% of the average
18 amount of electricity produced by such turbine in comparable previous
19 time periods (adjusted for actual wind conditions), as determined by the
20 county planning and development department located in the industrial
21 windpower electric generation project county, for a period of at least six
22 consecutive months and no demonstrated viable plan to restore the equip-
23 ment to operating condition exists. An entire project shall be considered
24 to have been abandoned when at least 50% of the individual turbines
25 have not produced electricity for a period of at least six consecutive
26 months and no demonstrated viable plan to restore the equipment to
27 operating condition exists. An extension of the six-month time period may
28 be granted by the board of county commissioners located in the industrial
29 windpower electric generation project county or the state corporation
30 commission upon the presentation of sufficient justification by the owner
31 of such project.

32 (d) Nothing in this act shall preclude the rights of counties to imple-
33 ment zoning requirements that include these standards or provide for
34 siting requirements that are more strict in dealing with the resources of
35 statewide importance that are the subject of this act and nothing in this
36 act shall preclude counties from prohibiting industrial windpower electric
37 generation facilities.

38 Sec. 2. This act shall take effect and be in force from and after its
39 publication in the statute book.