

By: Hinojosa

S.B. No. 1053

A BILL TO BE ENTITLED

AN ACT

relating to notice of and issuance of a permit for the construction or expansion of a wind-powered electric generation facility located near a federally owned or operated radar installation or military installation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 5, Utilities Code, is amended by adding Chapter 252 to read as follows:

CHAPTER 252. CONSTRUCTION OR EXPANSION OF CERTAIN WIND-POWERED
ELECTRIC GENERATION FACILITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 252.001. DEFINITION. In this chapter, "commission" means the Texas Commission on Environmental Quality.

Sec. 252.002. APPLICABILITY OF CHAPTER. This chapter applies only to construction or expansion of any part of a wind-powered electric generation facility within 25 miles of the boundaries of a federally owned or operated radar installation or military installation.

Sec. 252.003. CONSULTATION CONCERNING RULES. The commission shall consult with the office of the governor, the Texas Military Preparedness Commission, the office of the comptroller of public accounts, and the State Energy Conservation Office in developing and amending rules to implement and administer this chapter.

1 [Sections 252.004-252.050 reserved for expansion]

2 SUBCHAPTER B. REQUEST FOR NOTIFICATION

3 Sec. 252.051. REQUEST FOR NOTIFICATION. A federally owned
4 or operated radar installation or military installation may request
5 that the commission notify the installation of a planned
6 construction or expansion project if any part of the construction
7 or expansion will occur within 25 miles of the boundaries of the
8 installation.

9 Sec. 252.052. NOTIFICATION LIST. (a) The commission shall
10 create and maintain a list of federally owned or operated radar
11 installations and military installations that have requested
12 notification from the commission under Section 252.051.

13 (b) The commission shall publish the notification list
14 required by this section on its Internet website and provide a copy
15 of the list to each person who requests a copy.

16 Sec. 252.053. RULES RELATING TO LIST. The commission may
17 adopt rules as necessary to enable federally owned or operated
18 radar installations and military installations to request
19 notification and to be included on the notification list required
20 by Section 252.052, including rules relating to the information an
21 installation must provide to the commission.

22 [Sections 252.054-252.100 reserved for expansion]

23 SUBCHAPTER C. NOTIFICATION OF CONSTRUCTION OR EXPANSION

24 Sec. 252.101. NOTIFICATION OF PROPOSED CONSTRUCTION TO
25 COMMISSION. (a) A person who intends to begin a construction or
26 expansion project to which this chapter applies shall provide
27 written notice to the commission of the planned construction or

1 expansion. The commission by rule shall set a deadline by which the
2 notification required by this section must be provided.

3 (b) The notice required under Subsection (a) must include:

4 (1) the name of the person planning the construction
5 or expansion;

6 (2) the location of the planned construction or
7 expansion;

8 (3) a detailed description of any construction or
9 expansion that will extend 200 feet or higher above ground level,
10 including the final proposed height of that construction or
11 expansion; and

12 (4) the name and location of each federally owned or
13 operated radar installation or military installation whose
14 boundaries are within 25 miles of any part of the planned
15 construction or expansion and whether the installation is included
16 on the notification list described by Section 252.052.

17 Sec. 252.102. NOTIFICATION OF PROPOSED CONSTRUCTION BY
18 COMMISSION. Not later than the 25th day after the date the
19 commission receives notice of a proposed construction or expansion
20 project under Section 252.101, the commission shall provide a copy
21 of the notice to:

22 (1) any federally owned or operated radar installation
23 or military installation that the commission determines is included
24 on the notification list described by Section 252.052 and that has
25 boundaries within 25 miles of the proposed project;

26 (2) each county or municipality that the commission
27 determines has boundaries within 25 miles of a federally owned or

operated radar installation or military installation described by
Subdivision (1);

(3) the office of the governor;

(4) the Texas Military Preparedness Commission;

(5) the office of the comptroller of public accounts;

and

(6) the State Energy Conservation Office.

Sec. 252.103. EXPIRATION OF SUBCHAPTER. This subchapter
expires April 1, 2012.

[Sections 252.104-252.150 reserved for expansion]

SUBCHAPTER D. PERMIT FOR CONSTRUCTION OR EXPANSION

Sec. 252.151. PERMIT OR PERMIT AMENDMENT REQUIRED. Before
work is begun on the construction of a new wind-powered electric
generation facility to which this chapter applies or the expansion
of an existing facility to which this chapter applies, the person
planning the construction or expansion must obtain a permit or
permit amendment from the commission.

Sec. 252.152. APPLICATION. (a) To obtain a permit or
permit amendment described by Section 252.151, a person must submit
an application to the commission.

(b) An application must be on a form adopted by rule by the
commission. The form must require the applicant to provide the
information necessary to enable the commission to determine whether
to issue the permit or permit amendment.

Sec. 252.153. PROCEDURES FOR ACTING ON APPLICATIONS.
(a) The commission shall adopt rules providing for notice, the
submission of public comments, and an opportunity for a public

1 hearing on an application.

2 (b) At the time an application is administratively
3 complete, the commission shall provide a copy of the application
4 to:

5 (1) any federally owned or operated radar installation
6 or military installation that the commission determines is included
7 on the notification list described by Section 252.052 and that has
8 boundaries within 25 miles of the proposed project;

9 (2) each county or municipality that the commission
10 determines has boundaries within 25 miles of a federally owned or
11 operated radar installation or military installation described by
12 Subdivision (1);

13 (3) the office of the governor;

14 (4) the Texas Military Preparedness Commission;

15 (5) the office of the comptroller of public accounts;

16 and

17 (6) the State Energy Conservation Office.

18 (c) The commission shall provide notice of a public meeting
19 held under this chapter to:

20 (1) the entities listed in Subsection (b); and

21 (2) a municipality or county that the commission
22 determines could be affected by the permit application.

23 (d) After the office of the comptroller of public accounts
24 receives notice under Subsection (b) of an application, the
25 comptroller shall prepare an economic impact analysis of the
26 proposed construction or expansion and submit the analysis to the
27 commission.

1 Sec. 252.154. ISSUANCE OF PERMIT OR PERMIT AMENDMENT.

2 (a) The commission may not issue a permit or permit amendment for
3 construction or expansion of a wind-powered electric generation
4 facility to which this chapter applies if the commission determines
5 that the construction or expansion will unreasonably interfere with
6 the activities of a federally owned or operated radar installation
7 or military installation whose boundaries are within 25 miles of
8 any part of the planned construction or expansion.

9 (b) If the commission determines that the commission is not
10 prohibited under Subsection (a) from issuing a permit or permit
11 amendment, the commission shall consider the following factors in
12 deciding whether to issue the permit or permit amendment:

13 (1) the mission of any federally owned or operated
14 radar installation or military installation that the commission
15 determines has boundaries within 25 miles of the proposed
16 construction or expansion;

17 (2) the economic impact of the proposed construction
18 or expansion on affected municipalities and counties and on this
19 state, using the analysis submitted by the comptroller under
20 Section 252.153(d); and

21 (3) any other information the commission determines is
22 relevant.

23 (c) The commission shall adopt rules for making the
24 determination under this section.

25 Sec. 252.155. FEES. The commission shall charge a fee in an
26 amount provided by commission rule to a person who applies for a
27 permit or permit amendment for a construction or expansion project.

1 The amount of the fee may not exceed an amount reasonably necessary
2 to recover the cost of administering this chapter.

3 Sec. 252.156. APPLICABILITY OF OTHER LAW. Subchapter M,
4 Chapter 5, Water Code, does not apply to a permit issued under this
5 chapter.

6 SECTION 2. (a) Except as provided by Subsection (b) of
7 this section, this Act applies only to a wind-powered electric
8 generation facility for which construction or expansion begins on
9 or after the effective date of this Act. A facility for which
10 construction or expansion began before the effective date of this
11 Act is governed by the law in effect on the date the construction or
12 expansion began, and that law is continued in effect for that
13 purpose.

14 (b) Subchapter D, Chapter 252, Utilities Code, as added by
15 this Act, applies only to construction or expansion of a
16 wind-powered electric generation facility that begins on or after
17 April 1, 2012. Construction or expansion of a wind-powered electric
18 generation facility that begins before April 1, 2012, is governed
19 by the law in effect before the effective date of this Act, and that
20 law is continued in effect for that purpose.

21 SECTION 3. Not later than January 1, 2012, the Texas
22 Commission on Environmental Quality shall adopt rules to implement
23 Chapter 252, Utilities Code, as added by this Act.

24 SECTION 4. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

S.B. No. 1053

1 Act takes effect September 1, 2011.