

By: King of Taylor, Keffer

H.B. No. 3168

Substitute the following for H.B. No. 3168:

By: King of Parker

C.S.H.B. No. 3168

A BILL TO BE ENTITLED

AN ACT

relating to wind energy facilities and the rights of owners of land on which wind energy facilities are located.

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

SECTION 1. Title 11, Natural Resources Code, is amended by adding Chapter 212 to read as follows:

CHAPTER 212. WIND ENERGY FACILITIES

Sec. 212.001. DEFINITIONS. In this chapter:

(1) "Wind energy conversion system" means a system that converts wind energy into electric energy through the use of a wind turbine generator and includes a turbine, blade, tower, base, and pad transformer, if any.

(2) "Wind energy facility" means an electric generating facility that consists of one or more wind energy conversion systems under common ownership or operating control and the substations, meteorological data towers, aboveground and underground electric transmission lines, transformers, control systems, and other buildings or facilities used to support the operation of the facility.

Sec. 212.002. APPLICABILITY. This chapter applies only to a wind energy conversion system or wind energy facility:

(1) the primary purpose of which is to supply electric energy to an off-site customer; and

(2) that is not located entirely on property held in

1 fee simple by the owner of the wind energy facility.

2 Sec. 212.003. RIGHTS OF LANDOWNER. (a) An owner or operator
3 of a wind energy conversion system or wind energy facility who pays
4 a landowner for the use of the landowner's property to generate
5 electric energy from the conversion of wind energy based on the
6 amount of electric energy produced from the conversion of wind
7 energy shall, on request from the landowner, provide the landowner
8 access to the records of the owner or operator relating to the wind
9 energy conversion system or wind energy facility for the purpose of
10 confirming the accuracy of payments made to the landowner. A
11 landowner may not request access to the records more frequently
12 than once each year.

13 (b) An owner or operator that receives a request under
14 Subsection (a) shall provide the landowner access to all records
15 necessary for the landowner to confirm the accuracy of payments
16 made to the landowner, including documents, data, and other
17 information, or copies of the records, documents, data, or
18 information. The records are subject to any confidentiality
19 requirements in a lease agreement between the landowner and the
20 owner or operator.

21 (c) The owner or operator shall comply with the landowner's
22 request to access the records within a reasonable time.

23 (d) The owner or operator shall:

24 (1) provide access to the records in a reasonable
25 location and manner that affords the landowner reasonable access to
26 the records during normal business hours; and

27 (2) allow the landowner a reasonable period of time to

1 examine the records.

2 (e) A landowner may not cause undue disruption to the
3 operations of an owner or operator when examining records under
4 this section.

5 (f) Not later than the 10th day before the date an owner of a
6 wind energy conversion system or wind energy facility enters into a
7 lease agreement with a landowner that allows the owner to operate
8 the system or facility on the landowner's property, the owner must
9 send to the landowner, by first class mail or otherwise:

10 (1) a written disclosure that the landowner will be
11 entitled to access the records of the owner for the purpose of
12 confirming the accuracy of payments made to the landowner; and

13 (2) a written insurance disclosure that states that
14 the owner:

15 (A) will not maintain insurance applicable to the
16 system or facility; or

17 (B) will maintain an insurance policy applicable
18 to the system or facility or will maintain a self-insurance plan
19 applicable to the system or facility.

20 (g) The disclosure required by Subsection (f) must be made
21 in a document that is separate from the lease.

22 (h) If an owner notifies a landowner under Subsection (f)(2)
23 that the owner will maintain an insurance policy and the policy
24 allows the landowner to be named as an additional insured on the
25 policy, the owner must include with the notice a statement that the
26 landowner may be named as an additional insured on the policy.

27 Sec. 212.004. ENFORCEMENT BY ATTORNEY GENERAL. The

1 attorney general may enforce the provisions of this chapter.

2 SECTION 2. Sections 212.003(f), (g), and (h), Natural
3 Resources Code, as added by this Act, apply only to a lease
4 agreement entered into on or after the effective date of this Act.
5 A lease agreement entered into before the effective date of this Act
6 is governed by the law as it existed immediately before the
7 effective date of this Act, and that law is continued in effect for
8 that purpose.

9 SECTION 3. This Act takes effect January 1, 2014.