

By: Campbell

S.B. No. 1372

A BILL TO BE ENTITLED

AN ACT

relating to requirements for maintaining and decommissioning certain wind-powered generation facilities.

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

SECTION 1. Chapter 37, Utilities Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. WIND-POWERED GENERATION FACILITIES

Sec. 37.201. DEFINITION. "Wind-powered generation facility" means an electric generation facility consisting of one or more wind turbines and associated substations, meteorological data towers, electric transmission lines, transformers, control systems, and other buildings or facilities used to support the operation of the turbines.

Sec. 37.202. WIND GENERATION DECOMMISSIONING FUND. (a) The wind generation decommissioning fund is created as an account in the general revenue fund of the state treasury.

(b) Money in the wind generation decommissioning fund may be used only by the commission or its employees or agents for the purposes of this subchapter.

Sec. 37.203. MAINTENANCE AND DECOMMISSIONING OF WIND GENERATION FACILITIES. The commission by rule shall require a person who is issued a certificate that includes a wind-powered generation facility, or an amendment of a certificate that includes a wind-powered generation facility, to maintain and decommission

1 the wind-powered generation facility in a manner that protects the
2 environment and the interests of the owner of the property on which
3 the facility is located.

4 Sec. 37.204. BONDS; LETTERS OF CREDIT; CASH DEPOSITS. (a)
5 The commission shall require a person who is issued a certificate
6 that includes a wind-powered generation facility, or an amendment
7 of a certificate that includes a wind-powered generation facility,
8 to maintain on file with the commission, in an amount determined by
9 the commission sufficient for decommissioning the facility:

10 (1) an individual bond;

11 (2) a blanket bond; or

12 (3) a letter of credit or cash deposit.

13 (b) Each bond must be conditioned that the person will
14 maintain and decommission the wind-powered generation facility in a
15 manner that protects the environment and the interests of the owner
16 of the property on which the facility is located.

17 (c) Each bond must be executed by a corporate surety
18 authorized to do business in this state and must be renewed and
19 continued in effect until the conditions of Subsection (b) have
20 been met or release is authorized by the commission.

21 Sec. 37.205. DEPOSIT AND USE OF MONEY. (a) Subject to
22 Subsection (b), if applicable, the commission shall provide for the
23 proceeds from bonds, letters of credit, and cash deposits required
24 under Section 37.204 that are paid to the state to be deposited to
25 the credit of the wind generation decommissioning fund.

26 (b) The commission shall refund the proceeds from a bond,
27 letter of credit, or cash deposit required under this subchapter

1 if:

2 (1) the conditions that caused the proceeds to be
3 collected are corrected or no longer exist;

4 (2) all penalties relating to those conditions are
5 paid; and

6 (3) the commission has been reimbursed for all costs
7 and expenses incurred by the commission in relation to those
8 conditions.

9 Sec. 37.206. INVESTIGATION, ASSESSMENT, OR DECOMMISSIONING
10 BY COMMISSION. (a) The commission may use money in the wind
11 generation decommissioning fund to conduct a site investigation or
12 environmental assessment of a wind-powered generation facility for
13 which a certificate has been issued.

14 (b) The commission may use money in the wind generation
15 decommissioning fund to decommission a wind-powered generation
16 facility for which a certificate was issued if:

17 (1) the certificate holder has failed or refused to
18 decommission the wind-powered generation facility after notice and
19 opportunity for hearing; or

20 (2) the certificate holder cannot be found or has no
21 assets with which to decommission the wind-powered generation
22 facility.

23 (c) The commission and its employees are not liable for any
24 damages arising from an act or omission if the act or omission is
25 part of a good faith effort to carry out this section.

26 (d) The conducting of a site investigation, environmental
27 assessment, or decommissioning activities by the commission under

1 this section does not prevent the commission from seeking penalties
2 or other relief provided by law from any person who is required by
3 law, rules adopted by the commission, or a valid order of the
4 commission to decommission a wind-powered generation facility.

5 (e) If the commission decommissions a wind-powered
6 generation facility under this section, the commission may recover
7 all costs incurred by the commission from any person who was
8 required by law, rules adopted by the commission, or a valid order
9 of the commission to decommission the wind-powered generation
10 facility. The commission by order may require the person to
11 reimburse the commission for those costs or may request the
12 attorney general to file suit against the person to recover those
13 costs. At the request of the commission, the attorney general may
14 file suit to enforce an order issued by the commission under this
15 subsection. A suit under this subsection may be filed in any court
16 of competent jurisdiction in Travis County. The commission shall
17 provide for costs recovered under this subsection to be deposited
18 to the credit of the wind generation decommissioning fund.

19 SECTION 2. This Act takes effect September 1, 2019.