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By:  Spiller H.B. No. 171

A BILL TO BE ENTITLED

AN ACT

relating to location requirements for the construction of certain wind-powered energy devices.

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

SECTION 1.  The heading to Title 6, Utilities Code, is amended to read as follows:

TITLE 6. PRIVATELY ENFORCEABLE RENEWABLE GENERATION PROVISIONS

[~~PRIVATE POWER AGREEMENTS~~]

SECTION 2.  Title 6, Utilities Code, is amended by adding Chapter 303 to read as follows:

CHAPTER 303. WIND TURBINE GENERATOR SITING

Sec. 303.0101.  SITING. (a) A person may not construct at a site a wind turbine generator unless the site complies with the minimum setback requirements provided by this section.

(b)  The minimum setback for a wind turbine generator is 3,000 feet measured from the property line of each property that borders the property on which the site is located.

(c)  The setback distance described by Subsection (b) must be measured as a straight line from the vertical centerline of the proposed wind turbine generator to the nearest point on the property line.

(d)  This section does not create an offense.

Sec. 303.0102.  SITING WAIVER. (a) A person may begin construction of a wind turbine generator at a site that does not comply with the requirements of Section 303.0101 if the person obtains a signed, written waiver from the owner of the property that is the source of the noncompliance.

(b)  A waiver may not be made effective for a period of more than one year after the date the owner signs the waiver. A waiver may be retroactive for any period of time.

Sec. 303.0103.  INJUNCTION. (a) A county or district court by injunction may prevent, restrain, abate, or otherwise remedy a violation of this chapter.

(b)  A person affected or who may be affected by a violation or threatened violation of this chapter may bring suit under Subsection (a).

SECTION 3.  Chapter 240, Local Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. WIND-POWERED ENERGY DEVICES

Sec. 240.101.  DEFINITIONS. In this subchapter:

(1)  "Air navigation facility" and "airport" have the meanings assigned by Section 22.001, Transportation Code.

(2)  "Wind-powered energy device" means an apparatus designed or adapted to:

(A)  convert the energy available in the wind into thermal, mechanical, or electrical energy;

(B)  store the energy converted under Paragraph (A), either in the form to which originally converted or another form; or

(C)  distribute the energy converted under Paragraph (A).

Sec. 240.102.  DESIGNATION OF CONSTRUCTION AREAS. (a) The commissioners court of a county in which an air navigation facility or airport is located by order may, in collaboration with the owner or operator of the facility or airport:

(1)  designate one or more appropriate locations for a person to install a wind-powered energy device in the unincorporated area of the county in accordance with this section; and

(2)  prohibit the installation of a wind-powered energy device in the county in an area other than a designated area.

(b)  An order under Subsection (a) may not apply to a wind-powered energy device installed before the effective date of the order.

(c)  Areas designated by a county under Subsection (a) must maintain compatibility with the activities of the air navigation facility or airport.

SECTION 4.  Chapter 303, Utilities Code, as added by this Act, applies only to a wind turbine generator the construction of which begins on or after the effective date of this Act. Construction of a wind turbine generator that began before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 5.  This Act takes effect September 1, 2023.