

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

1 comply with the requirements of Section 303.0101 if the person
2 obtains a signed, written waiver from the owner of the property that
3 is the source of the noncompliance.

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

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

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

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

15 SUBCHAPTER F. WIND-POWERED ENERGY DEVICES

16 Sec. 240.101. DEFINITIONS. In this subchapter:

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

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

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

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

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

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

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

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

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

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

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

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