

SENATE BILL No. 325

By Committee on Utilities

1-12

1 AN ACT concerning property; relating to wind and solar energy facilities;
2 requiring appropriate zoning of land prior to construction of such
3 facilities; establishing protest procedures for county zoning resolutions;
4 requirements for the recordation of wind and solar energy leases and
5 easements; amending K.S.A. 58-2221 and repealing the existing
6 section.

7
8 WHEREAS, This act shall be known and may be cited as the Kansas
9 renewable energy transparency act.

10 Now, therefore:

11 *Be it enacted by the Legislature of the State of Kansas:*

12 New Section 1. (a) On and after July 1, 2022, no:

13 (1) Facility may be constructed on any parcel of land that is not zoned
14 for industrial use by the county in which such facility is to be constructed;
15 and

16 (2) developer may begin site preparation for or construction of a
17 facility without first acquiring the appropriate building permit or
18 conditional use permit from the county in which such facility is to be
19 constructed.

20 (b) (1) Within 90 days after a county has approved a resolution
21 rezoning any parcel of land for industrial activities, a petition protesting
22 the enforcement of such resolution signed by 10% or more of the qualified
23 electors of such rezoned parcels or who are contiguous to such rezoned
24 parcels may be submitted to the county election officer.

25 (2) If a sufficient petition is filed, the county election officer shall
26 notify the board of county commissioners. The board of county
27 commissioners shall submit the proposition of modifying the resolution to
28 remove the provisions from the resolution relating to the rezoning of such
29 property for industrial activities. Such resolution shall be submitted to the
30 qualified electors at the next regular primary or general county election.
31 Such election shall be called and held in the manner provided by the
32 general bond law. The county election officer shall certify the results of
33 such election to the board. If a majority of the qualified electors voting on
34 the question vote in favor thereof, the board shall modify such resolution
35 to remove the provisions from the resolution relating to the rezoning of
36 such property for industrial activities. Such resolution shall be adopted

1 within 30 days following the canvass of such election.

2 (3) If an election is held pursuant to this subsection and a majority of
3 the qualified electors vote in favor of reversing the rezoning, the board
4 shall not adopt any such resolution for at least four years following the
5 date of the election held pursuant to this subsection.

6 (c) For the purposes of this section:

7 (1) "Developer" means any person, firm, partnership, corporation,
8 limited liability corporation, association, cooperative corporation or other
9 entity desiring to construct all or any portion of a facility and holding by
10 lease, easement or otherwise the real property rights necessary for
11 construction of a facility. "Developer" includes any of the persons or
12 entities that may hold record title to the real property rights used or
13 intended to be used for a facility.

14 (2) "Facility" means an electric generation facility consisting of:

15 (A) One or more wind turbines and any accessory structures and
16 buildings, including substations, meteorological towers, electrical
17 infrastructure, transmission lines and other appurtenant structures, located
18 within the boundaries of land where a developer plans to construct all or a
19 portion of such electric generation facility; or

20 (B) a solar energy system, including any device or combination of
21 devices or elements that rely on direct sunlight for the generation of
22 electricity. A "facility" does not include any solar energy system that is
23 predominately designed and used only for the purpose of offsetting a part
24 or all of the electrical energy requirements of the premises upon which
25 such facility is constructed.

26 Sec. 2. K.S.A. 58-2221 is hereby amended to read as follows: 58-
27 2221. (a) (1) Every instrument in writing that conveys:

28 ~~(a)—real estate;~~

29 ~~(b)—, any estate or interest created by an oil and gas lease;~~

30 ~~(c)—any estate or interest created by any lease or easement involving~~
31 ~~wind resources and technologies to produce and generate electricity; or~~

32 ~~(d)—whereby any real estate may be affected, proved or~~
33 ~~acknowledged, and certified in the manner hereinbefore prescribed, may~~
34 ~~be recorded in the office of register of deeds of the county in which such~~
35 ~~real estate is situated. It shall be the duty of the register of deeds to file the~~
36 ~~same for record immediately, and in those counties where a numerical~~
37 ~~index is maintained in the register of deeds' office, the register of deeds~~
38 ~~shall compare such instrument, before copying the same in the record, with~~
39 ~~the last record of transfer in the register of deeds' office of the property~~
40 ~~described. If the register of deeds finds such instrument contains apparent~~
41 ~~errors, the register of deeds shall not record the instrument until the~~
42 ~~grantee has been notified, if such notice is reasonably possible.~~

43 (2) The grantor, lessor, grantee or lessee or any other person

1 conveying or receiving real property or other interest in real property upon
2 recording the instrument in the office of register of deeds shall furnish the
3 register of deeds the full name and last known post-office address of the
4 person to whom the property is conveyed or such person's designee. The
5 register of deeds shall forward such information to the county clerk of the
6 county who shall make any necessary changes in address records for
7 mailing tax statements.

8 *(b) (1) Any lease or easement involving wind or solar resources and*
9 *technology to produce and generate electricity shall:*

10 *(A) Not be recorded by the register of deeds unless such lease or*
11 *easement is accompanied by the requisite building permit or conditional*
12 *use permit for the construction of the facilities used to produce and*
13 *generate electricity;*

14 *(B) be recorded in the office of register of deeds of the county where*
15 *such real estate is situated within 30 days of the execution of such lease or*
16 *easement. Any such lease or easement that is presented to the register of*
17 *deeds for recording more than 30 days after the execution of such lease or*
18 *easement shall not be recorded; and*

19 *(C) disclose the registered company name and any trade name of the*
20 *grantee and the operator of the lease or easement.*

21 *(2) If any such lease or easement is not recorded in accordance with*
22 *the requirements of this subsection or is fraudulently recorded, the*
23 *developer of such facility shall be prohibited from recording any*
24 *subsequent lease or easement involving wind or solar resources and*
25 *technology upon such property.*

26 *(3) As used in this subsection, "developer" and "facility" mean the*
27 *same as such terms are defined in section 1, and amendments thereto.*

28 Sec. 3. K.S.A. 58-2221 is hereby repealed.

29 Sec. 4. This act shall take effect and be in force from and after its
30 publication in the statute book.