

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 21-0742.01 Jennifer Berman x3286

SENATE BILL 21-149

SENATE SPONSORSHIP

Gardner,

HOUSE SPONSORSHIP

(None),

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING LIMITATIONS ON THE CONSTRUCTION OF WIND ENERGY**
102 **FACILITIES SITED NEAR MILITARY RESOURCES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires a wind energy developer or owner to notify the United States department of defense military aviation and installation assurance siting clearinghouse (clearinghouse) of the new construction or expansion of a wind energy facility if the proposed project would include vertical construction exceeding 200 feet in height.

Upon receiving notification of a proposed project, the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

clearinghouse is requested to review the proposed project to determine whether it would have an adverse impact to military mission, training, or operations and to notify the wind energy developer of its determination in writing within 90 days after receiving the notice. If the clearinghouse determines the proposed project will have no adverse impact, the proposed project may proceed. If the clearinghouse determines that the proposed project will have an adverse impact, the proposed project may proceed only if the wind energy developer or owner commits to resolving the adverse impact through the implementation of mitigation measures that the clearinghouse identifies in its determination.

A wind energy developer or owner shall not construct a new wind energy facility or expand an existing wind energy facility in a manner that includes any vertical construction in excess of 50 feet in height if the wind energy facility is located within 2 nautical miles of an active federal military missile launch or control facility.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 38-30.7-106 as
3 follows:

4 **38-30.7-106. Wind energy facilities construction - impacts to**
5 **military facilities and operations.** (1) (a) (I) BEFORE CONSTRUCTION OF
6 ANY NEW WIND ENERGY FACILITY OR EXPANSION OF AN EXISTING WIND
7 ENERGY FACILITY THAT INCLUDES VERTICAL CONSTRUCTION EXCEEDING
8 TWO HUNDRED FEET IN HEIGHT, A WIND ENERGY DEVELOPER OR OWNER OF
9 A WIND ENERGY FACILITY SHALL PROVIDE WRITTEN NOTICE OF THE
10 PROPOSED CONSTRUCTION OR EXPANSION TO THE UNITED STATES
11 DEPARTMENT OF DEFENSE MILITARY AVIATION AND INSTALLATION
12 ASSURANCE SITING CLEARINGHOUSE, REFERRED TO IN THIS SECTION AS
13 THE "CLEARINGHOUSE", REQUESTING THAT THE CLEARINGHOUSE REVIEW
14 THE PROPOSED PROJECT AND DETERMINE WHETHER THE PROPOSED
15 PROJECT WOULD HAVE AN ADVERSE IMPACT TO MILITARY MISSION,
16 TRAINING, OR OPERATIONS.

17 (II) THE WIND ENERGY DEVELOPER OR OWNER SHALL NOT

1 COMMENCE WITH THE PROPOSED PROJECT UNLESS THE WIND ENERGY
2 DEVELOPER OR OWNER RECEIVES FROM THE CLEARINGHOUSE A
3 DETERMINATION OF NO ADVERSE IMPACT TO MILITARY MISSION, TRAINING,
4 OR OPERATIONS OR A DETERMINATION THAT ANY ADVERSE IMPACT MAY
5 BE RESOLVED THROUGH THE WIND ENERGY DEVELOPER'S OR OWNER'S
6 IMPLEMENTATION OF MITIGATION MEASURES AND THE WIND ENERGY
7 DEVELOPER OR OWNER COMMITS TO IMPLEMENTING THE MITIGATION
8 MEASURES.

9 (b) THE WRITTEN NOTICE REQUIRED UNDER SUBSECTION (1)(a)(I)
10 OF THIS SECTION MUST CONTAIN A DESCRIPTION OF THE PROPOSED
11 CONSTRUCTION OF A NEW WIND ENERGY FACILITY OR EXPANSION OF AN
12 EXISTING WIND ENERGY FACILITY, INCLUDING:

13 (I) THE LOCATION OF THE PROPOSED PROJECT;

14 (II) THE PROJECTED NUMBER AND CAPACITY OF WIND TURBINES
15 INCLUDED IN THE PROPOSED PROJECT; AND

16 (III) THE LIKELY LOCATION OF ANY ELECTRIC TRANSMISSION
17 LINES, METEOROLOGICAL TOWERS, AND OTHER FACILITIES RELATED TO
18 THE PROPOSED PROJECT.

19 (2) UPON RECEIVING NOTICE OF THE PROPOSED CONSTRUCTION OF
20 A NEW WIND ENERGY FACILITY OR EXPANSION OF AN EXISTING WIND
21 ENERGY FACILITY PURSUANT TO SUBSECTION (1)(a)(I) OF THIS SECTION,
22 THE CLEARINGHOUSE IS REQUESTED TO REVIEW THE PROPOSED PROJECT
23 AND NOTIFY THE WIND ENERGY DEVELOPER OR OWNER OF ITS
24 DETERMINATION AS DESCRIBED IN SUBSECTION (1)(a)(II) OF THIS SECTION
25 IN WRITING WITHIN NINETY DAYS AFTER RECEIVING NOTICE OF THE WIND
26 ENERGY DEVELOPER'S OR OWNER'S PROPOSED PROJECT.

27 (3) IF AN EXISTING WIND ENERGY FACILITY IS LOCATED, OR A NEW

1 WIND ENERGY FACILITY WOULD BE SITED, WITHIN TWO NAUTICAL MILES OF
2 AN ACTIVE FEDERAL MILITARY MISSILE LAUNCH OR CONTROL FACILITY,
3 THE WIND ENERGY DEVELOPER OR OWNER SHALL NOT EXPAND THE
4 EXISTING FACILITY OR CONSTRUCT THE NEW FACILITY IN A MANNER THAT
5 INCLUDES ANY VERTICAL CONSTRUCTION IN EXCESS OF FIFTY FEET IN
6 HEIGHT, INCLUDING THE HEIGHT OF ANY RELATED ELECTRIC
7 TRANSMISSION LINES, METEOROLOGICAL TOWERS, OR OTHER FACILITIES.

8 **SECTION 2. Applicability.** This act applies to conduct occurring
9 on or after the effective date of this act.

10 **SECTION 3. Safety clause.** The general assembly hereby finds,
11 determines, and declares that this act is necessary for the immediate
12 preservation of the public peace, health, or safety.