

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1150

(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 11-254.07, Arizona Revised Statutes, is amended
3 to read:

4 11-254.07. Renewable energy incentive districts; definition

5 A. The board of supervisors may designate a renewable energy
6 incentive district in any unincorporated area of the county if all of the
7 following apply:

8 1. The proposed district consists of a vacant or underused parcel or
9 parcels of property, or any other parcel or parcels of property the board
10 of supervisors deems suitable for renewable energy and storage equipment,
11 that are appropriate sizes for the construction and operation of renewable
12 energy and storage equipment. The board of supervisors may designate large
13 portions of unincorporated county land or noncontiguous portions of land as
14 a renewable energy incentive district or districts.

15 2. The proposed district is located within an area of the county so
16 that the construction and operation of renewable energy and storage
17 equipment would not be incompatible with other uses of property in the area
18 considering factors relating to the construction and operation of renewable
19 energy and storage equipment, including:

20 (a) The ability to adequately buffer the district from surrounding
21 incompatible uses.

1 (b) The noise level emanating from the district alone and in
2 relation to ambient noise levels at the perimeter of the property falling
3 within the proposed district and relative to other adjacent lands.

4 (c) The extent to which the district would be located in proximity
5 to existing transportation and electrical transmission corridors.

6 (d) Compatibility with commercial and military air space
7 requirements.

8 3. The board of supervisors has evaluated the extent to which the
9 proposed district is consistent with the existing county comprehensive plan
10 and has determined that the proposed district does not conflict with the
11 plan. The board of supervisors may determine that the district is not a
12 major amendment to the county comprehensive plan pursuant to section
13 11-805.

14 B. Before establishing a renewable energy incentive district, the
15 board of supervisors shall:

16 1. Identify the boundaries of the proposed district.

17 2. Notify the owners of private property in the proposed district,
18 property managers of federal and state land in the proposed district and
19 adjacent property owners by first class mail sent to the addresses on the
20 most recent tax roll. The notice shall be mailed at least fifteen days
21 before the hearing held to adopt the energy incentive plan.

22 C. If the board of supervisors establishes a renewable energy
23 incentive district, it shall adopt a renewable energy incentive plan to
24 encourage the construction and operation of renewable energy and storage
25 equipment in the district. The plan may include:

26 1. Expedited zoning or rezoning procedures.

27 2. Expedited processing of plans, proposals and permits.

28 3. Waivers or abatement of county zoning fees, processing fees, and
29 county improvement district fees and assessments for development
30 activities.

31 4. Waiver or abatement of development standards and procedural
32 requirements.

1 D. A WIND FARM AS DEFINED IN SECTION 30-301 THAT IS DEVELOPED WITHIN
2 A RENEWABLE ENERGY INCENTIVE DISTRICT SHALL COMPLY WITH THE REQUIREMENTS OF
3 TITLE 30, CHAPTER 2.

4 ~~D.~~ E. For the purposes of this section, "renewable energy and
5 storage equipment" has the same meaning prescribed in section 42-14155.

6 Sec. 2. Title 11, chapter 6, Arizona Revised Statutes, is amended by
7 adding article 7, to read:

8 ARTICLE 7. WIND FARMS

9 11-881. Definitions

10 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- 11 1. "OWNER" HAS THE SAME MEANING PRESCRIBED IN SECTION 30-301.
- 12 2. "WIND FARM" HAS THE SAME MEANING PRESCRIBED IN SECTION 30-301.

13 11-882. Wind farms: construction and conditional use permits:
14 hearing: notice: costs

15 A. THE COUNTY PLANNING AND ZONING COMMISSION SHALL HOLD A PUBLIC
16 HEARING TO CONSIDER AND ACT ON AN APPLICATION FOR A PERMIT FOR CONSTRUCTION
17 AND CONDITIONAL USE OF A WIND FARM WITHIN NINETY DAYS AFTER THE COUNTY
18 PLANNING AND ZONING COMMISSION DEEMS THE APPLICATION COMPLETE.

19 B. THE COUNTY PLANNING AND ZONING COMMISSION SHALL PROVIDE NOTICE OF
20 THE TIME, LOCATION AND PURPOSE OF THE PUBLIC HEARING TO CONSIDER THE
21 APPLICATION FOR A PERMIT FOR CONSTRUCTION AND CONDITIONAL USE OF A WIND
22 FARM BY DOING ALL OF THE FOLLOWING:

23 1. PUBLISHING THE NOTICE AT LEAST THIRTY DAYS BEFORE THE HEARING IN
24 A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY WHERE THE PROPOSED WIND
25 FARM IS LOCATED.

26 2. POSTING THE NOTICE AT LEAST THIRTY DAYS BEFORE THE PUBLIC HEARING
27 AT ONE-HALF MILE INTERVALS ALONG THE PERIMETER OF THE PROPOSED WIND FARM
28 LOCATION AND AT ONE-HALF MILE INTERVALS ALONG ANY PUBLIC ROAD LOCATED ALONG
29 THE PERIMETER OF THE PROPOSED WIND FARM LOCATION.

30 3. MAILING THE NOTICE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED,
31 TO ALL ADJOINING LANDOWNERS AND ALL PROPERTY OWNERS WITHIN SIX MILES OF THE

1 BOUNDARY OF THE PROPOSED WIND FARM. THE CERTIFIED MAIL SHALL BE POSTMARKED
2 AT LEAST THIRTY CALENDAR DAYS BEFORE THE DATE OF THE PUBLIC HEARING.

3 4. REGULAR FIRST-CLASS MAILING THE NOTICE TO ALL INTERESTED PERSONS
4 WHO HAVE REQUESTED NOTICE OF A PUBLIC HEARING BEFORE THE COUNTY PLANNING
5 AND ZONING COMMISSION. THE REGULAR FIRST-CLASS MAIL SHALL BE POSTMARKED AT
6 LEAST THIRTY CALENDAR DAYS BEFORE THE DATE OF THE PUBLIC HEARING.

7 C. THE COUNTY SHALL REQUIRE THE WIND FARM OWNER TO PAY THE COSTS OF
8 PROVIDING THE NOTICE AS REQUIRED BY THIS SECTION.

9 11-883. Financial surety; decommissioning; cleanup

10 A. A COUNTY SHALL ADOPT THE FOLLOWING REQUIREMENTS IN ISSUING A
11 PERMIT FOR THE CONSTRUCTION AND CONDITIONAL USE OF A WIND FARM ON PUBLIC
12 LAND:

13 1. THE OWNER OF THE WIND FARM MUST PROVIDE FINANCIAL SURETY IN A
14 FORM AND AMOUNT SATISFACTORY TO THE COUNTY AND THE STATE LAND
15 DEPARTMENT. THE FINANCIAL SURETY SHALL BE SUFFICIENT TO COVER THE COSTS OF
16 CLEANUP AND MITIGATION IN THE EVENT OF A CASUALTY EVENT, PLUS A TEN PERCENT
17 CONTINGENCY. THE FINANCIAL SURETY AMOUNT SHALL BE BASED ON A MAXIMUM
18 WORST-CASE SCENARIO OF EXTREME DAMAGE OF ONE WIND TURBINE BY A CASUALTY
19 EVENT ON THE PROJECT SITE AND ADJACENT LAND OR WATERWAYS, DEATH AND OTHER
20 ADVERSE HEALTH CONSEQUENCES TO PERSONS.

21 2. THAT ANY FINANCIAL SURETY OR OTHER ASSURANCE REQUIRED PURSUANT TO
22 PARAGRAPH 1 OF THIS SUBSECTION INCLUDE A PROVISION FOR RELEASING THE MONIES
23 TO THE COUNTY IN THE EVENT CLEANUP AND MITIGATION ARE NOT COMPLETED IN A
24 TIMELY MANNER.

25 3. THAT ANY FINANCIAL SURETY OR OTHER ASSURANCE REQUIRED PURSUANT TO
26 PARAGRAPH 1 OF THIS SUBSECTION BE MAINTAINED FOR THE LIFE OF THE
27 PROJECT. PROOF OF RECERTIFICATION OF THE FINANCIAL SURETY OR OTHER
28 ASSURANCE INSTRUMENT MUST BE SUBMITTED TO THE COUNTY ANNUALLY.

29 4. IF THE WIND FARM IS LOCATED ON STATE OR FEDERAL LAND,
30 DECOMMISSIONING OF A WIND FARM MUST INCLUDE AT A MINIMUM ALL OF THE
31 FOLLOWING:

1 (a) REMOVAL OF ALL PROJECT MATERIALS, REGARDLESS OF THEIR DEPTH
2 BELOW THE SURFACE, INCLUDING TURBINES, SUBSTATIONS, TOWER FOUNDATIONS,
3 BURIED CABLES, TRANSMISSION LINES, ROADWAY PAVING AND ANY OTHER NONNATIVE
4 MATERIALS, AND THE REMOVAL OR REMEDIATION OF CONTAMINATED SOIL, REGARDLESS
5 OF ITS DEPTH BELOW THE SURFACE.

6 (b) THE PROHIBITION, DURING THE REMOVAL AND REMEDIATION OF THE WIND
7 FARM, ON DISPOSING, INCINERATING OR BURYING ON-SITE OR ON ANY LAND WITHIN
8 THE COUNTY ANY PROJECT MATERIALS.

9 (c) THAT THE OWNER OF THE WIND FARM PROVIDE FINANCIAL SURETY IN A
10 FORM AND AMOUNT SATISFACTORY TO COVER THE COST OF CLEANUP, DECOMMISSIONING
11 AND RESTORING THE SITE TO ITS ORIGINAL CONDITION ON TERMINATION OF THE
12 PROJECT OR DECOMMISSIONING AFTER THE LIFE OF THE PROJECT. DECOMMISSIONING
13 MONIES SHALL BE AN AMOUNT EQUAL TO THE TOTAL COSTS FOR DECOMMISSIONING THE
14 SITE, PLUS A TEN PERCENT CONTINGENCY. DECOMMISSIONING MONIES SHALL BE
15 MAINTAINED IN THE FORM OF A PERFORMANCE BOND, SURETY BOND, BANK LETTER OF
16 CREDIT, STABLE PARENT COMPANY GUARANTEE OR OTHER FORM OF FINANCIAL
17 ASSURANCE AS APPROVED BY THE COUNTY. FINANCIAL SURETY SHALL BE MAINTAINED
18 FOR THE LIFE OF THE PROJECT. PROOF OF RECERTIFICATION OF THE FINANCIAL
19 SURETY INSTRUMENT SHALL BE SUBMITTED TO THE COUNTY ANNUALLY.

20 (d) THAT THE FINANCIAL SURETY REQUIRED PURSUANT TO SUBDIVISION (c)
21 OF THIS PARAGRAPH ENSURE THAT THE CLEANUP, MITIGATION, REMOVAL AND
22 DECOMMISSIONING WILL BE UNDERTAKEN AND COMPLETED WITHOUT REGARD TO THE THEN
23 EXISTING OWNERSHIP OF OR TITLE TO THE WIND FARM FACILITY AND THE PROPERTY
24 WHERE THE WIND FARM IS LOCATED. THE FINANCIAL SURETY SHALL BE BINDING ON
25 ALL SUCCESSORS AND ASSIGNS OF THE OWNER OF THE WIND FARM PROJECT. THE
26 FINANCIAL SURETY SHALL BE STRUCTURED TO SURVIVE ANY BANKRUPTCY,
27 DISSOLUTION, INSOLVENCY OR OTHER TERMINATION OF THE WIND FARM OWNERSHIP AS
28 A LEGAL ENTITY.

29 (e) THAT THE AMOUNT OF THE FINANCIAL SURETY REQUIRED PURSUANT TO
30 SUBDIVISION (c) OF THIS PARAGRAPH BE ADJUSTED ANNUALLY FOR INFLATION BASED
31 ON THE CONSUMER PRICE INDEX OF THE UNITED STATES DEPARTMENT OF LABOR,
32 BUREAU OF LABOR STATISTICS.

1 (f) THAT ANY FINANCIAL DOCUMENT EVIDENCING THE MAINTENANCE OF THE
2 CLEANUP, DECOMMISSIONING AND RESTORING MONIES REQUIRED PURSUANT TO
3 SUBDIVISION (c) OF THIS PARAGRAPH INCLUDE PROVISIONS FOR RELEASING THE
4 MONIES TO THE COUNTY IN THE EVENT DECOMMISSIONING, RESTORING AND CLEANUP
5 ARE NOT COMPLETED IN A TIMELY MANNER.

6 B. EVERY THREE YEARS, THE OWNER OF THE WIND FARM ON PUBLIC LAND
7 SHALL RETAIN AN INDEPENDENT ENGINEER REGISTERED PURSUANT TO TITLE 32,
8 CHAPTER 1 AND APPROVED BY THE COUNTY TO REESTIMATE THE TOTAL COST OF
9 CLEANUP, DECOMMISSIONING AND RESTORING THE WIND FARM AND PROPERTY. THE
10 ENGINEER SHALL ATTEST THAT THE VALUE OF THE FINANCIAL SURETY INSTRUMENT
11 REQUIRED PURSUANT TO SUBSECTION A, PARAGRAPH 4, SUBDIVISION (c) OF THIS
12 SECTION IS APPROPRIATE. THE ENGINEER'S REPORT SHALL BE FILED WITH THE
13 COUNTY AND SHALL INCORPORATE ANY NEW INDUSTRY INFORMATION THE WIND FARM
14 OWNER HAS OBTAINED SINCE THE LAST COST DETERMINATION.

15 11-884. Ownership change; county approval; notification

16 A. IF THE WIND FARM IS LOCATED ON STATE OR FEDERAL LAND, THE COUNTY
17 BOARD OF SUPERVISORS SHALL APPROVE ANY CONVEYANCE, TRANSFER, ASSIGNMENT OR
18 OTHER DIVESTITURE OF OWNERSHIP OF A WIND FARM BEFORE THE TRANSFER OF
19 OWNERSHIP. THE BOARD'S APPROVAL SHALL BE CONTINGENT ON AN ASSESSMENT OF
20 THE POTENTIAL BUYER'S FINANCIAL, TECHNICAL, LEGAL AND CHARACTER
21 QUALIFICATIONS.

22 B. THE OWNER OF A WIND FARM SHALL PROVIDE WRITTEN NOTICE TO THE
23 COUNTY BOARD OF SUPERVISORS IMMEDIATELY OF A PLANNED CONVEYANCE, TRANSFER,
24 ASSIGNMENT OR OTHER DIVESTITURE OF THE OWNERSHIP OF THE WIND FARM. THE
25 NOTICE SHALL BE PROVIDED TO THE COUNTY NOT LATER THAN TWENTY DAYS BEFORE
26 THE PROPOSED EFFECTIVE DATE OF THE CONVEYANCE, TRANSFER, ASSIGNMENT OR
27 OTHER DIVESTITURE.

28 Sec. 3. Title 19, chapter 1, article 4, Arizona Revised Statutes, is
29 amended by adding section 19-144, to read:

30 19-144. Wind farms; referendum petition against county action

31 A. ON THE APPROVAL BY THE BOARD OF SUPERVISORS OF THE ISSUANCE OF A
32 CONSTRUCTION OR CONDITIONAL USE PERMIT FOR A WIND FARM, A PERSON OR

1 ORGANIZATION MAY FILE A REFERENDUM PETITION AGAINST THE ISSUANCE OF THE
2 WIND FARM CONSTRUCTION OR CONDITIONAL USE PERMIT.

3 B. A REFERENDUM PETITION AND ELECTION AGAINST A CONSTRUCTION OR
4 CONDITIONAL USE PERMIT MAY BE LIMITED TO THE SUPERVISORY DISTRICT IN WHICH
5 THE PROPOSED WIND FARM IS LOCATED.

6 C. THE WHOLE NUMBER OF VOTES CAST AT THE ELECTION AT WHICH A COUNTY
7 SUPERVISOR WAS CHOSEN LAST PRECEDING THE SUBMISSION OF THE APPLICATION FOR
8 A PETITION AGAINST A WIND FARM CONSTRUCTION OR CONDITIONAL USE PERMIT SHALL
9 BE THE BASIS ON WHICH THE NUMBER OF ELECTORS OF THE DISTRICT REQUIRED TO
10 FILE A REFERENDUM PETITION SHALL BE COMPUTED.

11 D. THE REFERENDUM PETITION SHALL BE FILED WITH THE COUNTY CLERK
12 WITHIN SIXTY DAYS AFTER THE BOARD OF SUPERVISORS APPROVES THE WIND FARM
13 CONSTRUCTION OR CONDITIONAL USE PERMIT.

14 Sec. 4. Title 30, Arizona Revised Statutes, is amended by adding
15 chapter 2, to read:

16 CHAPTER 2

17 WIND FARMS

18 ARTICLE 1. GENERAL PROVISIONS

19 30-301. Definitions

20 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

21 1. "OWNER" MEANS THE PERSON, CORPORATION, ASSOCIATION OR OTHER FIRM
22 THAT OWNS A MAJORITY INTEREST IN THE WIND FARM PROJECT AND HAS AUTHORITY TO
23 DO BOTH OF THE FOLLOWING:

24 (a) MAKE DECISIONS AFFECTING THE PROJECT OR PROJECT SITE.

25 (b) BIND THE WIND FARM PROJECT TO THE REQUIREMENTS OF ANY CONTRACT,
26 LEASE, STATUTE, ORDINANCE, PERMIT OR OTHER AGREEMENT RELATED TO THE WIND
27 FARM PROJECT OR PROJECT SITE.

28 2. "WIND FARM":

29 (a) INCLUDES UTILITY-SCALE WIND TURBINES AND ASSOCIATED FACILITIES
30 THAT HAVE AN INTERCONNECTION TO THE ELECTRICAL GRID AND THAT ARE DESIGNED
31 FOR OR CAPABLE OF OPERATION AT AN AGGREGATE CAPACITY OF FIVE OR MORE
32 MEGAWATTS.

1 (b) DOES NOT INCLUDE ONE OR MORE WIND TURBINES AND ASSOCIATED
2 FACILITIES THAT ARE PRIMARILY DEDICATED TO PROVIDING ELECTRICITY TO A
3 SINGLE CUSTOMER AT A SINGLE LOCATION.

4 30-302. Location; approvals; leases; state agencies; annual
5 consultation

6 A. A WIND FARM MAY NOT BE LOCATED WITHIN SIX MILES OF ANY PROPERTY
7 THAT IS ZONED FOR RESIDENTIAL USE.

8 B. UNLESS PROHIBITED BY FEDERAL LAW, BEFORE APPLYING FOR ANY LEASE
9 OR CONDITIONAL USE PERMIT TO A FEDERAL AGENCY, THIS STATE OR A POLITICAL
10 SUBDIVISION OF THIS STATE, THE OWNER OF A WIND FARM SHALL OBTAIN THE
11 APPROVAL OF ALL OF THE FOLLOWING:

12 1. THE STATE HISTORIC PRESERVATION OFFICE. THE STATE HISTORIC
13 PRESERVATION OFFICE SHALL ISSUE AN APPROVAL AFTER REVIEW OF ALL POTENTIAL
14 GROUND DISTURBANCES AND PROPOSED MITIGATIONS, INCLUDING AN ASSESSMENT OF
15 ANY ADVERSE EFFECT OR IMPACT TO CULTURAL PROPERTIES, NATIONAL REGISTERED
16 HISTORIC DISTRICTS, ARCHAEOLOGICAL SITES AND UNMARKED BURIAL SITES
17 ASSOCIATED WITH THE PROPOSED WIND FARM PROJECT.

18 2. THE ARIZONA GAME AND FISH DEPARTMENT. THE ARIZONA GAME AND FISH
19 DEPARTMENT SHALL ISSUE AN APPROVAL AFTER REVIEW AND ASSESSMENT OF THE
20 DIRECT, INDIRECT OR CUMULATIVE IMPACTS OF THE PROPOSED WIND FARM PROJECT ON
21 WILDLIFE. THE WILDLIFE IMPACT REVIEW AND ASSESSMENT SHALL INCLUDE A
22 DETERMINATION OF WHETHER THE WIND FARM PROJECT WILL IMPACT ANY OF THE
23 FOLLOWING:

24 (a) ANY ENDANGERED, THREATENED OR OTHER SPECIAL STATUS SPECIES
25 POPULATION OR THEIR HABITATS, INCLUDING RIPARIAN AREAS AND SIGNIFICANT
26 TOPOGRAPHIC FEATURES.

27 (b) MIGRATORY BIRD AND MAMMALIAN SPECIES WHOSE MIGRATORY ROUTES
28 TRAVERSE THE PROJECT AREA, INCLUDING ANY ADVERSE IMPACTS ON IMPORTANT BIRD
29 AREAS.

30 (c) NATIVE RESIDENT SPECIES OF VERTEBRATES AND INVERTEBRATES AND
31 THEIR HABITATS.

1 (d) HUNTING, FISHING AND WILDLIFE VIEWING OPPORTUNITIES, INCLUDING
2 THE HABITAT, LIFE CYCLES, PREY AND FOOD CHAIN OF THE WILDLIFE, FISH AND
3 BIRDS COMMONLY HUNTED IN THE AREAS WITHIN AND ADJACENT TO THE WIND FARM.

4 3. THE ARIZONA GEOLOGICAL SURVEY. THE ARIZONA GEOLOGICAL SURVEY
5 APPROVAL OF THE PROPOSED WIND FARM PROJECT SHALL BE BASED ON AN ASSESSMENT
6 OF KNOWN AND POTENTIAL GEOLOGIC HAZARDS, KNOWN AREAS OF EARTH FISSURES,
7 BEDROCK INSTABILITY AND ANY LIMIT TO LAND USE, DISTURBANCE AND MANAGEMENT
8 OF THE WIND FARM PROJECT.

9 4. THE FEDERAL AVIATION ADMINISTRATION. THE FEDERAL AVIATION
10 ADMINISTRATION'S APPROVAL SHALL BE BASED ON A REVIEW AND DETERMINATION OF
11 WHETHER THE PROPOSED WIND FARM PROJECT IS WITHIN A FEDERAL AVIATION
12 ADMINISTRATION-DESIGNATED CIVILIAN AIRPORT RUNWAY CLEAR ZONE OR RUNWAY
13 PROTECTION ZONE OR A MILITARY AIRFIELD CLEAR ZONE OR ACCIDENT POTENTIAL
14 ZONE.

15 C. THE OWNER OF A WIND FARM SHALL ANNUALLY CONSULT WITH A SUPERVISOR
16 OF THE NATURAL RESOURCE CONSERVATION DISTRICT IN WHICH THE WIND FARM IS
17 LOCATED. THE CONSULTATION SHALL INCLUDE ALL OF THE FOLLOWING:

- 18 1. PREVENTION AND CONTROL OF SOIL EROSION BY WATER AND WIND.
- 19 2. ERADICATION OF NOXIOUS GROWTHS AND INVASIVE VEGETATION.
- 20 3. RESEEDING OF ERADICATED AREAS.

21 4. IMPLEMENTATION OF SOIL HEALTH PRACTICES TO IMPROVE SOIL ORGANIC
22 MATTER, SOIL STRUCTURE AND ITS WATER-HOLDING AND NUTRIENT-HOLDING CAPACITY.

23 5. REVIEW OF THE LAND, SOIL, WATER, PLANT COVER AND OTHER NATURAL
24 RESOURCES WITHIN THE PERIMETER OF THE WIND FARM FOR THE PURPOSES OF
25 MAINTAINING THE LAND IN A HEALTHY STATUS FOR EVENTUAL RESTORATION TO ITS
26 ORIGINAL CONDITION.

27 D. THE STATE LAND DEPARTMENT MAY NOT APPROVE THE LEASE OF STATE LAND
28 FOR A PROPOSED WIND FARM AND THE GOVERNOR MAY NOT DIRECT THE STATE LAND
29 DEPARTMENT TO APPROVE THE LEASE OF STATE LAND FOR A PROPOSED WIND FARM IF A
30 COUNTY BOARD OF SUPERVISORS DENIES THE ISSUANCE OF A CONSTRUCTION OR
31 CONDITIONAL USE PERMIT PURSUANT TO SECTION 11-882 OR IF THE VOTERS PASS A
32 REFERENDUM AGAINST THE APPROVAL BY THE BOARD OF SUPERVISORS OF A

1 CONSTRUCTION OR CONDITIONAL USE PERMIT FILED PURSUANT TO SECTION 19-144. A
2 FEDERAL LAND MANAGER MAY NOT ALLOW THE CONSTRUCTION OF A WIND FARM ON
3 FEDERAL LAND WITHOUT THE APPROVAL OF THE COUNTY BOARD OF SUPERVISORS OF THE
4 COUNTY WHERE THE FEDERAL LAND IS LOCATED OR IF THE VOTERS PASS A REFERENDUM
5 AGAINST THE APPROVAL BY THE BOARD OF SUPERVISORS OF A CONSTRUCTION OR
6 CONDITIONAL USE PERMIT FILED PURSUANT TO SECTION 19-144.

7 30-303. Decommissioning and cleanup

8 WHEN A WIND FARM IS DECOMMISSIONED, THE DEPARTMENT OF ENVIRONMENTAL
9 QUALITY SHALL ENSURE THAT THE CLEANUP, MITIGATION, REMOVAL AND
10 DECOMMISSIONING IS UNDERTAKEN AND COMPLETED PURSUANT TO THE REQUIREMENTS
11 ADOPTED PURSUANT TO SECTION 11-883.

12 Sec. 5. Section 37-281.02, Arizona Revised Statutes, is amended to
13 read:

14 37-281.02. Leasing state lands for commercial purposes for
15 more than ten years

16 A. All state lands are subject to lease as provided in this article
17 for a term in excess of ten years, but not more than ninety-nine years, for
18 commercial purposes to the highest and best bidder at public auction. The
19 auction shall be conducted at the place, in the manner, and after the
20 notice by publication provided for sales of such lands except as otherwise
21 provided in this section. For commercial leases of state land more than
22 three miles outside the boundaries of incorporated cities and towns having
23 a population of ten thousand persons or less or more than five miles
24 outside the boundaries of incorporated cities and towns having a population
25 in excess of ten thousand persons, the department shall cooperate with the
26 county or counties in which the land to be leased is located in considering
27 the intended uses. IF THE PROPOSED LEASE IS FOR THE CONSTRUCTION AND
28 CONDITIONAL USE OF A WIND FARM AS DEFINED IN SECTION 30-301, THE DEPARTMENT
29 SHALL COOPERATE WITH THE CITIES AND TOWNS THAT ARE WITHIN TWENTY-FIVE MILES
30 OF THE OUTER PERIMETER OF THE LAND TO BE LEASED IN CONSIDERING THE INTENDED
31 USES. The leases shall be granted in accordance with the Constitution of
32 Arizona, state laws and the rules of the department.

1 B. If the department determines that leasing of the land is in the
2 best interest of the state, the tract or tracts shall be offered for lease
3 to the highest and best bidder.

4 C. Each offer for lease shall reserve the right in the department to
5 reject any and all bids and to again offer the tract or tracts for lease if
6 the bids received are not acceptable to the department.

7 D. ~~Upon~~ **ON** announcement of the successful bidder, the first year's
8 annual rental shall be paid by cashier's check. The successful bidder
9 shall also pay the cost of the publication and reasonable expenses of the
10 sale, and such ~~funds~~ **MONIES** shall be subject to the provisions of section
11 37-107. If there are bids exceeding the minimum bid accepted at the
12 auction, the successful bidder has until 5:00 p.m. of the fifth business
13 day following the date of the auction to deposit a cashier's check with the
14 department for the amount exceeding the minimum bid for the first year's
15 rent. The failure to pay the first year's rent at the time of the auction
16 or to pay the amount exceeding the minimum bid by 5:00 p.m. on the fifth
17 business day after the auction results in forfeiture of the lease and all
18 monies paid. In the event of forfeiture, the commissioner may declare that
19 the bid placed before the final bid accepted is the highest bid, and that
20 bidder has five business days after notification by the department to pay
21 by cashier's check all amounts due under this section and section 37-107.

22 E. Before acceptance of any bid for a lease under this section, the
23 department shall establish to its satisfaction the responsibility of the
24 bidder.

25 F. Each lease shall be for a term in excess of ten years, but not
26 more than ninety-nine years, as determined by the department, and shall
27 provide for an annual rental of not less than the appraised fair market
28 rental value of the land. The department shall establish a rental
29 adjustment formula by which the rental provided for in the lease is subject
30 to adjustment after periods of time specified in the lease. A period of
31 time shall not exceed five years. The department shall include a rental
32 adjustment formula in each lease. The rental for the first five-year

1 period and the rental adjustment formula for that lease shall be
2 established by the department ~~prior to~~ BEFORE the call for bids. The
3 department shall publish in the call for bids the rental for the first
4 period and the rental adjustment formula for that lease.

5 G. A lease issued under this section may include an amortization
6 schedule to be used to determine the value of improvements when the lease
7 is terminated.

8 H. All provisions of this title applicable to state lands and the
9 lease thereof, not in conflict with the provisions of this section, shall
10 apply to leasing and leases issued under this section.

11 I. The department shall require an applicant to pay a deposit before
12 beginning to process an application to lease state trust lands if the
13 applicant did not bid at an auction where the applicant initiated the
14 process. The deposit shall be based on the approximate first year rental
15 plus administrative expenses and shall be deposited in a noninterest
16 bearing account. Monies must be deposited at the time of filing an
17 application or at a time determined by the commissioner. If the applicant
18 is not the successful bidder at public auction, the department shall refund
19 the deposit to the applicant. If the applicant is the successful bidder,
20 the department shall apply the deposit to the rental price at auction. If
21 there are no bids at the time of the auction, the department shall transfer
22 the deposit made by the applicant to the appropriate trust beneficiary.

23 Sec. 6. Section 37-286, Arizona Revised Statutes, is amended to
24 read:

25 37-286. Execution of leases by department; covenants;
26 assignment of lease by lessee

27 A. Leases shall be signed by the commissioner and sealed with the
28 seal of the ~~state land~~ department, and shall contain covenants that the
29 lessee will not ~~permit~~ ALLOW any loss, cause any waste in or ~~upon~~ ON the
30 land, or cut, waste or allow to be cut or wasted, any timber or standing
31 trees thereon without written consent of the department, except for fuel
32 for domestic uses, or for necessary improvements on the land, and that the

1 lessee will surrender peaceable possession of the lands at the expiration
2 of the lease. ~~Nothing in~~ This section ~~shall be construed to permit~~ DOES
3 NOT ALLOW the cutting of saw timber for any purpose without the written
4 consent of the department.

5 B. IF THE LESSEE IS THE OWNER OF A WIND FARM AS DEFINED IN SECTION
6 30-301, BOTH OF THE FOLLOWING APPLY:

7 1. THE STATE LAND LEASE OR RIGHT-OF-WAY LEASE SHALL INCORPORATE BY
8 REFERENCE ALL REQUIREMENTS SET FORTH IN THE CONSTRUCTION AND CONDITIONAL
9 USE PERMITS ISSUED BY THE COUNTY IN WHICH THE WIND FARM IS LOCATED.

10 2. IN ADDITION TO THE REQUIREMENTS OF SECTION 11-882, THE LEASE
11 SHALL INCLUDE A RESTORATION SECURITY INSTRUMENT APPROVED BY THE DEPARTMENT
12 SUFFICIENT TO COVER THE COSTS OF REGRADING, REVEGETATION AND LABOR TO FULLY
13 RESTORE THE LEASED LAND TO ITS ORIGINAL CONDITION, INCLUDING MEASURES
14 NECESSARY TO ADDRESS ECOLOGICAL AND VISUAL IMPACTS. THE RESTORATION
15 SECURITY INSTRUMENT SHALL SPECIFY HOW STATE LANDS WILL BE RESTORED AND
16 REVEGETATED. PROOF OF RECERTIFICATION OF THE SECURITY INSTRUMENT REQUIRED
17 BY THIS PARAGRAPH SHALL BE SUBMITTED TO THE DEPARTMENT ANNUALLY FOR THE
18 LIFE OF THE WIND FARM.

19 ~~B.~~ C. A lessee of state lands who is not in default in rent, and
20 who has kept and performed all the conditions of ~~his~~ THE LESSEE'S lease,
21 ~~may~~, with the written consent of the department, MAY assign the lease, but
22 a lessee who assigns a holding lease shall pay to the department one-half
23 of the consideration received for the assignment.

24 Sec. 7. Section 37-301, Arizona Revised Statutes, is amended to
25 read:

26 37-301. Procedure for protesting auctions

27 A. Any person who desires to protest any of the terms of a proposed
28 auction for the sale of state land, the lease of state land, or the sale of
29 natural products of state land shall file a written protest with the
30 department within thirty days after the first day of publication of the
31 terms of the proposed auction. All protests shall state specifically the
32 term or terms of the auction to which objection is made and state

1 specifically the reasons for each objection. An objection not specifically
2 stated or timely made is deemed to be waived.

3 B. At ~~his~~ THE COMMISSIONER'S discretion, the commissioner, on ten
4 days' notice, may order a hearing on any protest. Whether or not a hearing
5 is held, the commissioner, not less than seven days before the auction
6 date, shall enter a final order determining the validity of the
7 protests. If the commissioner determines that a protest is correct, the
8 pending auction shall be cancelled. If the commissioner determines that the
9 grounds of protest are incorrect, the auction shall proceed at the time and
10 place for which it was noticed.

11 C. Notwithstanding section 37-133, the commissioner's order granting
12 or denying a protest is subject to review only through a special action to
13 the court of appeals or supreme court, served on the department within
14 twenty days after the commissioner's order is entered. Notwithstanding any
15 law or rule applicable to other orders of the commissioner, ~~no~~ A motion for
16 rehearing is NOT required before seeking review of an order of the
17 commissioner rejecting a protest to the terms of an auction. Any rehearing
18 motion shall be filed within ten days ~~of~~ AFTER the entry of the
19 commissioner's order. Unless otherwise ordered by the commissioner, the
20 filing of a motion for rehearing does not extend the time for seeking
21 review of the commissioner's order granting or denying a protest. Unless
22 the commissioner orders a rehearing within five days after the rehearing
23 motion is filed, the rehearing motion is deemed denied. If a special
24 action review is not sought within twenty days after the commissioner
25 enters ~~his~~ THE COMMISSIONER'S order granting or denying a protest, or if
26 the commissioner's order is sustained on special action review and the
27 decision becomes final, ~~no~~ further action contesting the legality of the
28 terms of the auction may NOT be brought.

29 D. ANY PERSON WHO RESIDES WITHIN TWELVE MILES OF A PROPOSED AUCTION
30 OF STATE LAND FOR THE CONSTRUCTION AND CONDITIONAL USE OF A WIND FARM AS
31 DEFINED IN SECTION 30-301 HAS STANDING TO PROTEST THE PROPOSED AUCTION.

32 Sec. 8. Heading change

1 factors as a basis for its action with respect to the suitability of either
2 plant or transmission line siting plans:

3 1. Existing plans of this state, A local government and private
4 entities for other developments at or in the vicinity of the proposed site.

5 2. Fish, wildlife and plant life and associated forms of life on
6 which they are dependent.

7 3. Noise emission levels and interference with communication
8 signals.

9 4. The proposed availability of the site to the public for
10 recreational purposes, consistent with safety considerations and
11 regulations.

12 5. Existing scenic areas, historic sites and structures or
13 archaeological sites at or in the vicinity of the proposed site.

14 6. The total environment of the area.

15 7. The technical practicability of achieving a proposed objective
16 and the previous experience with equipment and methods available for
17 achieving a proposed objective.

18 8. The estimated cost of the facilities and site as proposed by the
19 applicant and the estimated cost of the facilities and site as recommended
20 by the committee, recognizing that any significant increase in costs
21 represents a potential increase in the cost of electric energy to the
22 customers or the applicant.

23 9. Any additional factors that require consideration under
24 applicable federal and state laws pertaining to any such site.

25 B. The committee shall give special consideration to the protection
26 of areas THAT ARE unique because of biological wealth or because they are
27 habitats for rare and endangered species.

28 C. IF THE APPLICATION IS FOR THE CONSTRUCTION AND CONDITIONAL USE OF
29 A WIND FARM AS DEFINED IN SECTION 30-301, THE COMMITTEE SHALL CONSIDER THE
30 IMPACT OF THE WIND FARM ON THE VISUAL AND AESTHETIC CHARACTER OF THE AREA.
31 THE COMMITTEE SHALL HAVE THE OBJECTIVE OF PRESERVING AND PROTECTING THE
32 NATURAL QUALITIES OF THE EXISTING SCENIC AREAS, HISTORIC SITES AND

1 DISTRICTS OF HISTORICAL SIGNIFICANCE AND STRUCTURES AND UNIQUE GEOLOGIC
2 FEATURES.

3 ~~C.~~ D. Notwithstanding any other provision of this article, the
4 committee shall require in all certificates OF ENVIRONMENTAL COMPATIBILITY
5 for facilities that the applicant comply with all applicable nuclear
6 radiation standards and air and water pollution control standards and
7 regulations, but shall not require either of the following:

8 1. Compliance with performance standards other than those
9 established by the agency having primary jurisdiction over a particular
10 pollution source.

11 2. That a contractor, subcontractor, material supplier or other
12 person THAT IS engaged in the construction, maintenance, repair or
13 improvement of any project subject to approval of the commission negotiate,
14 execute or otherwise become a party to any project labor agreement,
15 neutrality agreement as defined in section 34-321, apprenticeship program
16 participation or contribution agreement or other agreement with employees,
17 employees' representatives or any labor organization as a condition of or a
18 factor in the commission's approval of the project. This paragraph does
19 not:

20 (a) Prohibit private parties from entering into individual
21 collective bargaining relationships.

22 (b) Regulate or interfere with activity THAT IS protected by law,
23 including the national labor relations act.

24 ~~D.~~ E. Any certificate OF ENVIRONMENTAL COMPATIBILITY THAT IS
25 granted by the committee shall be conditioned on compliance by the
26 applicant with all applicable ordinances, master plans and regulations of
27 the THIS state, a county or an incorporated city or town, except that the
28 committee may grant a certificate OF ENVIRONMENTAL COMPATIBILITY
29 notwithstanding any such ordinance, master plan or regulation, exclusive of
30 franchises, if the committee finds as a fact that compliance with such AN
31 ordinance, master plan or regulation is unreasonably restrictive and
32 compliance therewith is not feasible in view of technology available. ~~When~~

1 IF it becomes apparent to the chairman of the committee or to the hearing
2 officer that an issue exists with respect to whether such an ordinance,
3 master plan or regulation is unreasonably restrictive and compliance
4 therewith is not feasible in view of technology available, the chairman or
5 hearing officer shall promptly serve notice of ~~such~~ THAT fact by certified
6 mail on the chief executive officer of the area of jurisdiction affected
7 and, notwithstanding any provision of this article to the contrary, shall
8 make ~~such~~ THAT area of jurisdiction a party to the proceedings on its
9 request and shall give it an opportunity to respond on ~~such~~ THAT issue.

10 Sec. 11. Moratorium

11 There is a moratorium on the approval of construction or conditional
12 use permits for six months after the effective date of this act to allow
13 counties to develop rules, regulations and ordinances that conform with
14 this act.

15 Sec. 12. Applicability

16 This act does not apply to a wind farm project that has been approved
17 and is under construction as of the effective date of this act.

18 Sec. 13. Retroactivity

19 This act applies retroactively to from and after December 31, 2024."

20 Amend title to conform

LUPE DIAZ

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