

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2367 Session of 2022

INTRODUCED BY MAKO, RYAN, O'NEAL, JAMES, PENNYCUICK, LAWRENCE, M. MACKENZIE, KERWIN, MILLARD, FEE, HELM, DIAMOND, HAMM, BURGOS, TOPPER, WHITE, C. WILLIAMS, METCALFE, ROAE, GILLEN, MALONEY, STRUZZI, ZIMMERMAN, OWLETT, MOUL, GROVE, HEFFLEY AND ROWE, MARCH 8, 2022

AS REPORTED FROM COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 22, 2022

AN ACT

1 Providing for duty of Department of Environmental Protection to
2 prohibit the construction or installation of wind turbines
3 that negatively affect military installations, for duties of
4 wind turbine owners and for authorization processes.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Military
9 Installation Training AND OPERATIONS Preservation Act. <--

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall
12 have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "CLEARINGHOUSE." THE MILITARY AVIATION AND INSTALLATION
15 ASSURANCE SITING CLEARINGHOUSE. <--

16 "Department." The Department of Environmental Protection of
17 the Commonwealth.

1 "Wind turbine." A wind turbine ~~with a capacity of at least~~ <--
2 ~~100 kilowatts.~~ OR COLLECTION OF WIND TURBINES THAT REQUIRE <--
3 NOTICE TO BE PROVIDED TO THE FEDERAL AVIATION ADMINISTRATION
4 UNDER 14 CFR 77.9 (RELATING TO CONSTRUCTION OR ALTERATION
5 REQUIRING NOTICE).

6 "Wind turbine owner." A person or entity that plans to
7 construct or install a wind turbine in this Commonwealth.
8 Section 3. Duty to prohibit construction of wind turbines that
9 negatively affect military installations.

10 ~~The department shall have the duty to prohibit the~~ <--
11 ~~construction or installation of a wind turbine in an area or a~~
12 ~~region of a military installation in this Commonwealth that may~~
13 ~~affect the military installation's airspace, flight paths or~~
14 ~~established training needs in accordance with this act.~~ A WIND <--
15 TURBINE SHALL NOT PRESENT AN ADVERSE IMPACT ON THE MISSION,
16 TRAINING OR OPERATION OF A MILITARY INSTALLATION WITHIN THE
17 COMMONWEALTH.

18 Section 4. Duties of wind turbine owners.

19 (a) Duties.--For the purpose of assisting the department in
20 complying with section 3, a wind turbine owner shall, in a
21 manner specified by the department, apply for a request for
22 authorization from the department prior to engaging in the
23 construction or installation of wind turbines. In applying for a
24 request for authorization under this subsection, the wind
25 turbine owner shall provide notice to the department of all of
26 the following:

- 27 (1) The size of each proposed wind turbine.
- 28 (2) The number of proposed wind turbines.
- 29 (3) The area or region where each proposed wind turbine
- 30 will be constructed.

1 (4) Any other necessary information requested by the
2 department.

3 (b) Prohibition.--A wind turbine owner may not engage in the
4 construction ~~or installation~~, INSTALLATION OR EXPANSION of a <--
5 wind turbine until the wind turbine owner has received an <--
6 authorization from the department under section 5(c)(1) and any
7 other required permits or authorizations in accordance with the
8 laws of this Commonwealth.

9 ~~Section 5. Authorization processes.~~

10 ~~(a) Forms and methods. The department shall establish a~~
11 ~~form and method to allow a wind turbine owner to apply for a~~
12 ~~request for authorization under section 4(a). Upon receipt of a~~
13 ~~request for authorization under section 4(a), the department~~
14 ~~shall immediately forward the request to the Adjutant General.~~

15 ~~(b) Duties of Adjutant General. No later than 60 days after~~
16 ~~receipt of the request for authorization forwarded by the~~
17 ~~department under subsection (a), the Adjutant General shall~~
18 ~~review the request and provide comments or information to the~~
19 ~~department regarding whether a proposed wind turbine will~~
20 ~~negatively impact a military installation's airspace, flight~~
21 ~~paths or established training needs.~~

22 ~~(c) Grant of authorization.~~

23 ~~(1) The department shall grant an authorization for the~~
24 ~~construction or installation of a proposed wind turbine to a~~
25 ~~wind turbine owner if any of the following apply:~~

26 ~~(i) The department receives comments or information~~
27 ~~from the Adjutant General under subsection (b) that the~~
28 ~~proposed wind turbine will not negatively impact a~~
29 ~~military installation's airspace, flight paths or~~
30 ~~established training needs.~~

~~(ii) The department receives no comments or information under subsection (b) from the Adjutant General within 60 days after receipt of the request for authorization forwarded by the department under subsection (a).~~

~~(2) The department may not grant an authorization for the construction or installation of a proposed wind turbine to a wind turbine owner if the department receives comments or information from the Adjutant General under subsection (b) that the proposed wind turbine may negatively impact a military installation's airspace, flight paths or established training needs.~~

~~(d) Other permits or authorization. The department may not issue any other required permits or authorizations under the laws of this Commonwealth regarding the construction or installation of a proposed wind turbine until the department grants an authorization for the construction or installation of the proposed wind turbine to the wind turbine owner under subsection (c) (1).~~ WRITTEN NOTIFICATION FROM THE CLEARINGHOUSE <--

THAT THE PROPOSED PROJECT WILL NOT HAVE AN ADVERSE IMPACT ON MILITARY OPERATIONS AND READINESS OR THAT THE PROPOSED PROJECT WILL NOT RESULT IN AN UNACCEPTABLE RISK TO THE NATIONAL SECURITY OF THE UNITED STATES.

SECTION 5. DEPARTMENT NOTIFICATION.

THE FOLLOWING SHALL APPLY:

(1) THE DEPARTMENT MAY NOT ISSUE A REQUIRED PERMIT OR AUTHORIZATION UNDER THE LAWS OF THIS COMMONWEALTH REGARDING THE CONSTRUCTION, INSTALLATION OR EXPANSION OF A PROPOSED WIND TURBINE UNLESS THE DEPARTMENT RECEIVES THE REQUIRED WRITTEN NOTIFICATION PROVIDED BY THE CLEARINGHOUSE UNDER

1 SECTION 4.

2 (2) A PERMIT OR AUTHORIZATION GRANTED UNDER THE LAWS OF
3 THIS COMMONWEALTH REGARDING A PROPOSED WIND TURBINE PROJECT
4 THAT HAS ALREADY BEEN GRANTED SHALL BE SUSPENDED UNTIL AN
5 APPLICANT PROVIDES TO THE DEPARTMENT THE WRITTEN NOTIFICATION
6 UNDER SECTION 4.

7 Section 6. Applicability.

8 This act shall apply to a wind turbine that commences
9 operations on or after the effective date of this section,
10 regardless of the status of any other of the wind turbine's
11 permits or authorizations required under the laws of this
12 Commonwealth. A wind turbine that will commence operations on or
13 after the effective date of this section shall obtain the
14 authorization required under section ~~5(e)(1)~~ 5(1) prior to <--
15 commencing operations and shall be prohibited from commencing
16 operations until the authorization has been granted by the
17 department.

18 Section 7. Effective date.

19 This act shall take effect immediately.