

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

House Bill 4784

By Delegates Ward, Chiarelli, Mallow, Heckert, Criss,
Coop-Gonzalez, Kump, Jennings, Sheedy, Willis, and
Foggin

[Originating in the Committee on the Judiciary;

Reported on February 23, 2024]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §24-2-11e, relating to establishing requirements for the commission to approve
3 a siting certificate; defining terms; mandating a minimum setback for the siting of a wind
4 turbine from a property line, residence, paved public road or overhead transmission line of
5 115kV capacity or greater; and providing methodology for calculation.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

**§24-2-11e. Siting certificates for wind energy systems; setback requirement for wind
turbines; definitions; waivers; measurement methodologies.**

1 (a) In order for the commission to grant or approve a siting certificate as described in §24-
2 2-11c of this code after the effective date of this section, the owner of a proposed wind energy
3 system must meet the requirements established in this section. This section does not apply to
4 applications for modifications pursuant to §24-2-11c of this code for siting certificates issued prior
5 to the effective date of this section.

6 (b) For purposes of this section:

7 (1) "Owner" means a person with a direct ownership interest in a wind energy system,
8 regardless of whether the person was involved in acquiring the necessary rights, permits,
9 certificates, and approvals or otherwise planning for the construction and operation of a wind
10 energy system.

11 (2) "Residence" means an single or multi-family dwelling, school, or any licensed health-
12 care facility intended for human habitation, and established as a permanent structure that has a
13 permanent foundation or footing, water service, and a sanitary sewer or septic service.

14 (3) "Wind energy system" means equipment and associated facilities that convert and then
15 store or transfer energy from the wind into usable forms of energy: *Provided*, That said equipment
16 and facilities exceed five hundred kilowatts of potential generation.

17 (4) "Wind turbine" is a component of a wind energy system that uses the aerodynamic
18 force from the rotor blades to turn wind power into electricity.

19 (c) An owner shall demonstrate that the design and construction of a wind energy system,
20 or an addition to an existing wind energy system, meets the following requirements as of the date
21 the siting certificate application is filed:

22 (1) The minimum setback from any non-participating landowner's property line for any wind
23 turbine which is part of a wind energy system shall be equal to one and one-tenth (1.1) times the
24 total combined height of the tower, turbine, and maximum blade height to the nearest point on the
25 property line: *Provided*, That a landowner may elect to sign a written waiver to allow any wind
26 turbine or group of turbines which are part of a wind energy system to be placed less than the
27 minimum set back provisions from the property line.

28 (2) The minimum setback from any non-participating landowner's residence for any wind
29 turbine which is part of a wind energy system shall be equal to at least one and one-half (1.5) times
30 the total combined height of the tower, turbine, and maximum blade height to the nearest point on
31 the outside wall of the residence: *Provided*, That a landowner may elect to sign a written waiver to
32 allow any wind turbine or group of turbines which are part of a wind energy system to be placed
33 less than the minimum set back provisions from the residence.

34 (3) The minimum setback from paved public roads and overhead transmission lines of
35 115kV capacity or greater shall be equal to one and one-tenth (1.1) times the total combined height
36 of the tower, turbine, and maximum blade height to such paved public road or transmission line.

37 (4) The owner shall measure wind turbine setback distances as a straight line from the
38 vertical centerline of the wind turbine to the nearest point on the paved public road, transmission
39 line, property line, or outside wall of the residence, as is applicable.

NOTE: The purpose of this bill is to establish the requirement that in order for the commission to award a siting certificate for a wind energy system, the minimum distance from a wind turbine to the closest residence be two miles.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.