

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 387

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO WIND ENERGY DEVELOPMENT; AMENDING CHAPTER 23, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2362, IDAHO CODE, TO ESTABLISH REQUIREMENTS FOR WIND ENERGY DEVELOPMENT AND DECOMMISSIONING; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 23, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-2362, Idaho Code, and to read as follows:

67-2362. WIND ENERGY DEVELOPMENT -- DECOMMISSIONING. (1) For the purposes of this section, the following definitions apply:

(a) "Decommission" or "decommissioning" means:

(i) The removal of all aspects of a wind turbine site, including subsurface materials, after the end of its useful life or upon abandonment;

(ii) The removal of all associated buildings, cabling, electrical components, roads, and any other improvements or aspects related to or associated with a wind turbine site, unless the landowner requests, in writing, that an improvement remain; and

(iii) The reclamation of surface lands to their previous grade, quality, and productivity.

(b) "Decommissioning deposit" means the cash deposit required pursuant to this section that ensures wind turbine sites are completely decommissioned.

(c) "Department" means the Idaho department of lands.

(d) "Owner" means a person who owns one (1) or more wind turbine sites.

(e) "Person" means any individual, partnership, corporation, association, governmental subdivision or agency, or public or private organization or entity of any character.

(f) "Wind turbine site" means the discrete location or locations for a single wind turbine and includes all surface and subsurface components of the wind turbine.

(2) Prior to commencing construction on a wind turbine site on any land within the state of Idaho, the owner shall remit to the state treasurer a decommissioning deposit in the form of a cash deposit in an amount determined by the department to be equal to the reasonably anticipated cost of fully decommissioning a wind turbine site. The owner shall remit to the state treasurer a decommissioning deposit in the form of a cash deposit in an amount determined by the department to be equal to the reasonably anticipated cost of fully decommissioning a wind turbine site prior to commencing construction on a wind turbine site that has been permitted by the federal government or

1 a state or local government, or any agency thereof, or is in the permitting
2 process on any land within the state of Idaho.

3 (3) To determine the amount of the decommissioning deposit, the owner,
4 in consultation with the department, shall cause, at the owner's expense, an
5 inspection of the wind turbine site to be made by a state-licensed engineer
6 with experience in wind turbine removal and reclamation. The engineer shall
7 prepare a report describing the reasonably anticipated costs of fully decom-
8 missioning a wind turbine site. Upon completion, the report shall be sent by
9 the engineer to the department and owner. Within thirty (30) days of receiv-
10 ing the report the department shall determine that the report:

11 (a) Accurately represents the costs reasonably anticipated to be in-
12 curred at the time of decommissioning; or

13 (b) Does not accurately represent the costs reasonably anticipated to
14 be incurred at the time of decommissioning. In such cases, the depart-
15 ment shall conduct or cause an independent assessment to be conducted to
16 determine actual costs of decommissioning at the owner's expense.

17 (4) Upon receipt of the decommissioning deposit or penalties assessed
18 pursuant to subsection (8) of this section, the state treasurer shall
19 promptly deposit the moneys into the wind energy fund, which is hereby cre-
20 ated in the state treasury, the interest of which shall be deposited in the
21 state general fund.

22 (5) In the event ownership of the wind turbine site is transferred,
23 the decommissioning deposit made by the transferor shall remain in place
24 and shall not be returned until such time as a new decommissioning deposit
25 that meets the requirements of this section is posted by the new owner and
26 accepted by the state treasurer.

27 (6) The owner shall notify the department, in writing, when decommis-
28 sioning has been fully completed. The department shall cause the wind tur-
29 bine site to be inspected within ninety (90) days of receiving the written
30 notification. If the department determines that decommissioning has been
31 fully and properly completed, the department shall direct the state trea-
32 surer, in writing, to return the decommissioning deposit.

33 (7) If the owner fails to properly decommission a site and has not rec-
34 tified the deficiencies to the department's satisfaction or does not have
35 a department-approved plan to rectify the deficiencies within a reasonable
36 time, within ninety (90) days of notice by the department, the department
37 shall cause the decommissioning deposit to be forfeited. The department,
38 with staff, equipment, and material under its control or by contract with
39 others, may take any necessary action to decommission the wind turbine site
40 and may recover from the owner the costs incurred to fully decommission the
41 site.

42 (8) If the owner fails to submit the decommissioning deposit, the owner
43 shall be subject to an administrative penalty not to exceed two thousand five
44 hundred dollars (\$2,500) per wind turbine site for each day the failure to
45 submit the decommissioning deposit continues.

46 (9) The requirements of this section are applicable to any person con-
47 structing a wind turbine site on land that is within the state of Idaho, re-
48 gardless of ownership status.

1 SECTION 2. An emergency existing therefor, which emergency is hereby
2 declared to exist, this act shall be in full force and effect on and after its
3 passage and approval.