

Testimony Submitted for Senate Bill No. 279
Senate Utilities Committee Hearing Held on March 22, 2021

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Chairman Mike Thompson and Members of the Senate Utilities Committee
Proponent Testimony SB 279

Since 2004, I have followed the issue of wind development in Kansas closely. I can say unequivocally that many provisions in this bill are desperately needed. I can also say that there is a serious flaw in this current draft which could easily be amended.

I am a wildlife advocate, and over the past three years I have repeatedly testified at public hearings in counties considering wind proposals. I have yet to encounter a proposal that conforms to the wildlife-protective guidelines put out by Kansas Department of Wildlife, Parks, and Tourism.

The same disregard for the Kansas environment displayed by developers has also been manifest in developers' treatment of Kansas residents.

SB 279 does not address wildlife concerns, but it is a bill that—finally—addresses the concerns of residents!

It has been heartbreaking to me to learn about what people go through when developers come to town. We went through our own anguish in Geary County back in 2004-2008.

But what people are experiencing today is in many ways even worse.

Every community I have visited has been negatively impacted by the divisiveness of wind proposals. People who used to sing in the choir together, no longer sing in the choir together. Neighbors who used to collaborate cooperatively now do not speak to each other. Divisiveness is created because lease-holders stand to profit financially and they and their extended family want that money, while non-participating landowners are looking at damage to their quality of life with no off-setting benefit to themselves.

SB 279 addresses quality of life for non-participating landowners! Your care and concern are so welcome! You are earning the gratitude of far more people than you will ever hear from during this hearing. The remedies you propose are so needed!

They are especially needed these days when wind developers have become more bare-knuckled. When we were going through it in Geary County, a series of developers offered us various benefits if we would drop our opposition. They offered new trails for

our wildlife refuge, a new fire truck for our community center, and various “confidential” payments to individuals. These were carrots, not sticks.

Now it is common for developers to threaten lawsuits against rural counties. Counties are being told that even passing a moratorium will trigger a lawsuit (moratoriums are one of the few options an unzoned county has). In addition, I am sure you are all aware of the infamous situation in Marion County, where developers actually sued individual residents for speaking out against their project. And the developers continue to sue Reno County for denying their permit.

Such bullying of localities and locals leads me to point out one thing that urgently needs to be changed in this draft of SB 279, and that is the passage that compels a county commission to grant a permit if the developer is able to check off the boxes on the checklist.

The developers will protest those boxes as if the checklist alone would kill their industry. But if this bill passes, it is unlikely wind developers will turn up their toes. Indeed, if there is one thing they are good at doing, it is checking off boxes on paper. However, most rural counties have no resources through which to compel compliance. And the language on p. 2, ll. 30-38, renders counties more vulnerable to lawsuits, as it takes away counties’ current ability to disapprove an application for reasons other than those on the checklist, except “reasonable” ones. “Reasonable” is a wiggle-term that would certainly invite legal challenge—not because counties were indeed “unreasonable” but because most rural counties do not have the resources to defend themselves in court.

That language (p. 2, ll. 30-38) should be changed, as it appears to presume that industrial wind energy is unquestionably a public good if it treats non-participating landowners with the specified consideration.

This is a controversial presumption, and counties should not be compelled to subscribe to it. Wind power supplied over 43% of Kansas’s electricity last year, but was it 43% of the electricity that consumers actually consumed? Can we count on that 43% to be there during a cold snap or a heat wave? Do we need to have natural gas in reserve when wind energy production is nonexistent? Are we paying for two sources of power because one is unreliable? We are told that wind power is now cheaper than any other power source. Why, then, as the share of wind in the energy mix has increased, has the price of electricity also increased? Our experience with electricity bills would appear to reinforce the idea that wind power is not pulling its weight on the grid but is actually an extra expense.

The coercive language on p. 2, ll. 30-38 would forbid county commissioners from considering such questions, and it would give developers even more hooks on which to hang a lawsuit.

In addition, the narrow focus of the checklist precludes consideration of issues that may become more clear in the future. For example, people are just beginning to question the

supposed environmental benefits of wind power. When we were discussing the issue back in 2004, we were considering siting alone; we did not total up the environmental costs of the mining, transportation, manufacturing, and construction that goes in to the production of a relatively short lived turbine, the major parts of which cannot be recycled at the end of their functional life. Back then we were concerned with projects that took up fewer than a thousand acres, not the tens of thousands of acres that are the norm these days. New wind installations require such huge swaths of land, would they even be capable of meeting the guidelines of Kansas Department of Wildlife, Parks, & Tourism, should those guidelines ever be required?

That is why I hope that the language in this draft can be amended to encourage county commissioners to consider the full range of issues that may reveal themselves, not only now, but in the future; and amended to guarantee that county commissioners can exercise their full range of powers, including the right to reject an application.

Thank you so much for considering these ideas. Best wishes to you and your deliberations!