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**REVISOR of STATUTES**

LEGISLATURE of THE STATE of KANSAS  
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**MEMORANDUM**

To: House Committee on Energy, Utilities and Telecommunications  
From: Nick Myers, Assistant Revisor of Statutes  
Date: February 19, 2019  
Subject: House Bill 2273

House Bill 2273 would create the wind generation permit and property protection act. The act would provide statewide mandatory setback distances for any wind energy facilities that have not yet been constructed. The act would also require wind energy developers to obtain approval from the board of county commissioners prior to construction of a wind energy facility.

HB 2273 would require wind energy facilities to adhere to statutory setback distances from certain property. Such setback distances could only be waived by a property owner through a written agreement with a wind energy developer. HB 2273 would enact the following setback distances:

	Property	Minimum Setback Distance (Whichever is greater)
1.	Residential property or public buildings	12 times system height or 7,920 feet
2.	Airports	20 times system height or 15,840 feet
3.	Any local, state or federal wildlife refuge, public hunting area or public park	20 times system height or 15,840 feet
4.	Adjacent property lines	3 times system height or 1,500 feet

HB 2273 would also require wind energy developers to apply for construction of a wind energy facility to the board of county commissioners in each county that contains property within any of the setback distances. A board of county commissioners would be required to approve an application if a wind energy developer complies with all the following criteria and any other reasonable requirements imposed by the board of county commissioners through a resolution:

1. The wind energy developer must submit an application on a form and in a manner specified by the board and the application must include contact information for the developer and detailed site plan for the facility.
2. The applicant must demonstrate that all applicable setback distances have been satisfied or have been waived through written agreements.
3. The applicant must demonstrate that turbines will only be equipped with navigational lights that are activated by radar technology to detect nearby aircraft. This requirement could be modified by a board of county commissioners through a resolution.
4. The applicant must provide notice of the proposed construction of the facility to all owners of any property located within any setback distance. The applicant also must provide notice in the official newspaper of each county.

HB 2273 would require a board of county commissioners to hold a public hearing on the application within 90 days, but no sooner than 20 days, after notice is provided in a local newspaper. The board would be required to deny an application if the facility would not comply with setback distance requirements or if the applicant failed to comply with any of the application process requirements.

HB 2273 would provide that if a developer and a property owner enter a written agreement to waive a setback distance, the developer could not impose any conditions that would restrict the property owner from disclosing the terms of the waiver agreement unless such waiver is a lease or easement with respect to the property the facility will be located upon.

Nothing in HB 2273 would prohibit boards of county commissions from imposing additional conditions or limitations upon wind energy facilities through the adoption of zoning regulations pursuant to K.S.A. 12-741 et seq.