

**SENATE BILL No. 323**

By Committee on Utilities

1-12

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1 AN ACT concerning wind and solar leases and easements; providing  
2 certain requirements for such conveyances; requiring execution of a  
3 facility agreement with the landowner.

4  
5 WHEREAS, This act shall be known and may be cited as the Kansas  
6 energy lease disclosure act.

7 Now, therefore:

8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. (a) Prior to the construction of any facility, any written  
10 instrument that conveys any estate or interest created by any lease or  
11 easement involving wind or solar resources and technologies to produce  
12 and generate electricity shall:

13 (1) Be delivered to the landowner with a completed cover page in at  
14 least 16-point type font containing the following paragraph:

15 "Special message to property owners: This is an important agreement  
16 our lawyers have drafted that will bind you and your land for up to  
17 \_\_\_\_\_ years. We will give you enough time to study and thoroughly  
18 understand it. We strongly encourage you to hire a lawyer to explain this  
19 agreement to you. You may talk with your neighbors about the project and  
20 find out if they also received a proposed contract. You and your neighbors  
21 may choose to hire the same attorney to review the agreement and  
22 negotiate changes on your behalf.";

23 (2) before executing such instrument, be held by the parties for at  
24 least 10 business days following delivery of the first proposed easement or  
25 lease instrument to the property owner;

26 (3) be free from any nondisclosure agreement that applies to  
27 negotiations or terms of any proposed lease or easement instrument, except  
28 that the parties may agree to a mutual confidentiality agreement in the  
29 final executed instrument; and

30 (4) include a facility agreement executed with the landowner that:

31 (A) Preserves the right of the landowner to continue conducting  
32 business operations as currently conducted for the term of the agreement  
33 except that a landowner shall make reasonable accommodations to the  
34 developer, owner or operator of the facility for the construction and  
35 operation of the business operations of the facility;

36 (B) prohibits the landowner and the developer, the owner and the

1 operator of the facility, including any successors in any such interest, from  
2 collecting any fees for hunting on the property that is subject to such lease  
3 or easement;

4 (C) obligates the developer, owner and operator of the facility to  
5 comply with federal and state law and local ordinances and does not make  
6 the landowner liable in the case of a violation;

7 (D) allows the landowner to terminate such facility agreement if the  
8 facility has not operated for a period of at least three years, unless the  
9 landowner receives the normal minimum lease payments that would have  
10 occurred if the facility had been operating during such period;

11 (E) clearly provides in writing the circumstances that may allow the  
12 developer, owner or operator of the facility to withhold payments from the  
13 landowner; and

14 (F) provides that the developer, owner and operator of the facility  
15 shall carry general liability insurance relating to claims for property  
16 damage or bodily injury arising out of the construction or operation of the  
17 facility project site and may include the landowner as an additional insured  
18 on the policy.

19 (b) If the terms of any easement or lease are found to not be in  
20 accordance with this section, a court of competent jurisdiction may alter  
21 the easement or lease to achieve compliance with this section, void the  
22 easement or lease or order any other equitable relief allowed by law.

23 (c) For the purpose of this section:

24 (1) "Developer" means any person, firm, partnership, corporation,  
25 limited liability corporation, association, cooperative corporation or other  
26 entity desiring to construct all or any portion of a facility and holding by  
27 lease, easement or otherwise the real property rights necessary for  
28 construction of a facility. "Developer" includes any of the persons or  
29 entities that may hold record title to the real property rights used or  
30 intended to be used for a facility.

31 (2) "Facility" means any electric generation facility that consists of:

32 (A) One or more wind turbines and any accessory structures and  
33 buildings, including substations, meteorological towers, electrical  
34 infrastructure, transmission lines and other appurtenant structures located  
35 within the boundaries of land where a developer plans to construct all or a  
36 portion of such electric generation facility; or

37 (B) a solar energy system including any device or combination of  
38 devices or elements that rely on direct sunlight for the generation of  
39 electricity.

40 Sec. 2. This act shall take effect and be in force from and after its  
41 publication in the statute book.