

Proponent Testimony SB279

Chairman Thompson and members of the Senate Utilities Committee:

My name is Nick Aberle. I live in Sabetha, Kansas where I farm with my brother and also currently serve as the Commissioner of Parks and Recreation for the City of Sabetha. My wife and I grew up in the Sabetha community and are grateful to be able to raise our family in Nemaha County, which we consider to be an ideal environment to enjoy life and prosper. Our county benefits greatly from a balance of productive farming businesses and also from specialized manufacturing companies and all the businesses and people that enable those businesses to operate. This cohesion of farming and industry provides a wide variety of jobs bringing economic security, which coupled with lower costs of living, attracts professional families that are able to “return home” to their rural roots while still utilizing their education. Some would consider it the perfect arrangement – less than an hour drive to “city” amenities, coupled with the close, personal interaction of life that many small rural communities offer.

My point in addressing you today is to point out the need for protections from industrial wind at the State level. It is probable that you’ve received testimony from Industrial Wind attorneys with the argument that local level zoning is appropriate, and state level regulation is an overreach and abuse of power, such as what Alan Claus Anderson, attorney with Polsinelli Energy Practice Group, argued before the Kansas House Energy, Utilities and Telecom Committee hearing on HB2273 on February 21, 2019. He claimed “...nothing is more local than land use decisions” as they are based upon the local community’s goals and values.” He went on to argue that local zoning with comprehensive planning is the best way to protect individual’s rights.

On March 7, 2019, the City of Sabetha Planning and Zoning commission held a public hearing to possibly amend its Comprehensive Plan and extend the Extra-Territorial Zoning Area. The same Alan Claus Anderson, identifying as an adjunct professor of law at Washburn University, attempted to dissuade the commission on expanding the zoning with arguments that no wind projects were imminent in those areas and that even zoning might not stop wind turbines, “because it is an agricultural zoned area.” So, in the span of a few weeks, Anderson strongly argued that the state should leave wind energy decisions to be made at the local level; and then showed up at our local meeting suggesting that we shouldn’t bother with expanded zoning because it might not make a difference anyway.

I find it interesting that after Sabetha unanimously passed the changes to the comprehensive plan and expansion of extraterritorial zoning, Anderson switched his focus to keeping other communities in our county, like Corning, from enacting comprehensive plans and extraterritorial zoning using intimidation and bullying. I can assure you that the presence of a biased lawyer at every city commission meeting would be an attempt to deprive the commissioners and community members of their First Amendment right to free speech as to what they desire for their community. Most of us small town commissioners are Average Joe’s just serving our neighbors – we’re not equipped to argue with an attorney hired by multi-billion-dollar developer.

I feel that Industrial Wind development tactics have proven that while local zoning and planning can affect and influence these developments, state level regulations should be enacted to provide a base level of support for these local communities and counties that find themselves fighting a battle against a corporation with much greater resources. In fact, NextEra sued Reno County, Kansas, in July 2019 for denying permits for wind development, as well as many other instances of lawsuits or threats of

lawsuits helping ensure that industrial wind development rolls on, unimpeded, ruining rural America's scenery, way of life, and the very relationships that make small, rural communities desirable.

In conclusion, I would urge you to send Senate Bill No. 279 to the Senate for approval, thus ensuring property right protection and base rules for future Industrial Wind development for the citizens of Kansas that desire it. It would also help curb Industrial Wind companies from intimidating and bullying the counties and towns of Kansas into submission.