



HB 2845

Decommissioning of Wind Power Facilities: Who Is Going to Pay?

Situation

The *decommissioning of wind power facilities is currently not addressed* in Texas. The oil and gas industry, however, must provide financial assurance for the decommissioning of their facilities.

Taxpayers should not have to pay for decommissioning costs of wind power facilities.

The cost of the decommissioning of a single turbine is estimated to be in the tens of thousands of dollars. *Who is going to pick up the tab?*

Wind energy companies already receive a *massive amount of subsidies* at the federal, state, and local levels that make it possible for them to always be building more turbines in Texas:

- The *cost to Texas taxpayers and ratepayers* is estimated to be *nearly \$2.5 billion in 2018 alone*.
- Wind energy companies represent *48 percent of local Chapter 313 tax limitation agreements*.
- The subsidies distort the electricity market and create *instability on the Texas electricity grid*.

The reliance of wind energy companies on subsidies raises questions about their financial reliability and ability to bear the cost of the decommissioning process in the future.

What Would HB 2845 Do?

- *Mandate decommissioning provisions in lease agreements* between landowners and wind power companies, without the possibility of a waiver.
- *Require a financial assurance* from the wind power facility, in the form of a parent company guaranty with an investment grade credit rating, a letter of credit, a bond, or another form of financial assurance acceptable to the landowner.

- Require the *amount of the financial assurance* to be at least the *cost of the decommissioning minus the salvage value of the facility and any portion of the value of the facility pledged to secure outstanding debt*. The cost of decommissioning and salvage value must be estimated by an independent, third-party professional engineer licensed in Texas, and updated every five years.

Recommendations

HB 2845 addresses a serious concern for both landowners and taxpayers: *Who is going to bear the cost of decommissioning wind power facilities when they reach the end of their useful life?*

However, the bill mandates certain provisions in private contracts between landowners and wind power companies. *We recommend a more voluntary approach by linking the decommissioning provisions to:*

- *The connection to the Texas electric grid* as long as the cost of the connection is borne by ratepayers instead of wind energy companies.
- *Chapter 312 tax abatement agreements and Chapter 313 tax limitation agreements*.

Texas ratepayers and taxpayers currently bear the cost of wind power companies' connection to the grid and of the subsidies these companies receive. However, companies can choose to do business without the preferential tax treatments.

The decommissioning provisions could be left up to the private negotiation between a landowner and a wind power facility company if the company chooses (1) not to seek a Chapter 312 or Chapter 313 agreement, and (2) bears the cost of the connection to the grid. ★