

## HOUSE BILL No. 1225

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-1-24; IC 36-7-39.

**Synopsis:** Wind power devices. Provides that a county official or a relative of a county official who has entered into an agreement for a lease, an easement, or another agreement with a developer (a person that seeks to obtain a right to locate a wind power device on real property or a person that seeks to locate a wind power device on real property in which the person owns an interest) concerning a wind power device shall recuse himself or herself from any matter that involves the ownership, operation, construction, or location of a wind power device in the county. Prohibits a county official or a relative of a county official who is subject to this recusal requirement from participating in a meeting in another county where a proposed wind power device is the subject of discussion. Establishes criteria that a developer must meet to record a lease, an easement, or another agreement for a wind power device. Requires the county recorder to: (1) publish and mail to each owner whose real property is located within two miles of the real property that is the proposed location of a proposed wind power device, notice that includes: (A) a copy of the county's wind energy conversion system ordinance, if applicable; (B) a copy of the developer's registration statement, if any; and (C) the name and contact information of a county official to contact with questions about the proposed wind farm development; and (2) send an invoice to the developer of the county recorder's costs to comply with the notification requirements. Provides that a developer shall reimburse the county recorder for the county recorder's costs to comply with the notification requirements. Requires a developer to file with the circuit court clerk a registration statement that provides: (1) contact  
(Continued next page)

**Effective:** Upon passage; July 1, 2018.

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## **Saunders, Ober, VanNatter**

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January 11, 2018, read first time and referred to Committee on Local Government.

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Digest Continued

information for the developer; (2) contact information for any agent, representative, or employee that is working or will work for the developer; (3) the identity of each county official the developer has contacted or plans to contact; and (4) a list of proceedings held by the county at which the developer has participated or plans to participate. Imposes a penalty on a developer if the developer fails to file a registration statement with the clerk.



Introduced

Second Regular Session of the 120th General Assembly (2018)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2017 Regular Session of the General Assembly.

## HOUSE BILL No. 1225

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A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 36-1-24 IS ADDED TO THE INDIANA CODE AS  
2       A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE UPON  
3       PASSAGE]:

4       **Chapter 24. Recusal of County Officials in Matters Involving**  
5       **Wind Power Devices**

6       **Sec. 1. (a) The definitions in IC 36-7-39 apply throughout this**  
7       **chapter.**

8       **(b) As used in this chapter, "recuse" means to refrain entirely**  
9       **from participation in a matter that involves the ownership,**  
10      **operation, construction, or location of a wind power device. The**  
11      **term includes a matter involving:**

- 12       **(1) voting by a county official at a meeting where the county**  
13       **official is otherwise entitled to vote; and**  
14       **(2) a county official's or a relative of a county official's**  
15       **attendance in the audience at a meeting regarding a matter**



1           **that involves the ownership, operation, construction, or**  
 2           **location of a wind power device.**

3           **(c) As used in this chapter, "relative", with respect to an**  
 4           **individual, refers to any of the following:**

- 5           **(1) The individual's spouse.**
- 6           **(2) A parent of the individual or a parent of the individual's**  
     7           **spouse.**
- 8           **(3) A child of the individual or a child of the individual's**  
     9           **spouse.**
- 10          **(4) A sibling of the individual or a sibling of the individual's**  
     11          **spouse.**
- 12          **(5) An aunt or an uncle of the individual or an aunt or an**  
     13          **uncle of the individual's spouse.**
- 14          **(6) A niece or a nephew of the individual or a niece or a**  
     15          **nephew of the individual's spouse.**
- 16          **(7) A grandparent of the individual or a grandparent of the**  
     17          **individual's spouse.**
- 18          **(8) A grandchild of the individual or a grandchild of the**  
     19          **individual's spouse.**
- 20          **(9) A great-grandparent of the individual or a**  
     21          **great-grandparent of the individual's spouse.**
- 22          **(10) A great-grandchild of the individual or a**  
     23          **great-grandchild of the individual's spouse.**

24          **(d) For purposes of subsection (c), a relative by adoption,**  
 25          **half-blood, marriage, or remarriage is considered as a relative of**  
 26          **whole kinship.**

27          **Sec. 2. This chapter applies to a county official, including a**  
 28          **relative of a county official, who has entered into an agreement**  
 29          **governed by IC 36-7-39 for:**

- 30          **(1) a lease;**
  - 31          **(2) an easement; or**
  - 32          **(3) another agreement;**
- 33          **with a developer for a wind power device.**

34          **Sec. 3. A person to whom this chapter applies who enters into an**  
 35          **agreement referred to in section 2 of this chapter shall recuse**  
 36          **himself or herself from any matter that involves the ownership,**  
 37          **operation, construction, or location of a wind power device.**

38          **Sec. 4. A person to whom this chapter applies who has entered**  
 39          **into an agreement referred to in section 2 of this chapter and is**  
 40          **required to recuse himself or herself under this chapter may not**  
 41          **participate in a meeting within the county where the county official**  
 42          **has authority that is the site of a proposed wind power device.**



1           **Sec. 5. A person to whom this chapter applies who has entered  
2           into an agreement referred to in section 2 of this chapter and is  
3           required to recuse himself or herself under this chapter may not  
4           participate in a meeting in another county:**

- 5           (1) where the development of a proposed wind power device  
6           or wind power devices are the subject of discussion; and  
7           (2) where the proposed wind power device or wind power  
8           devices are connected to the siting or development of a  
9           proposed wind power device or wind power devices in a  
10          county described in section 4 of this chapter.

11          SECTION 2. IC 36-7-39 IS ADDED TO THE INDIANA CODE AS  
12          A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
13          1, 2018]:

14          **Chapter 39. Regulation of Wind Farm Developers**

15          **Sec. 1. As used in this chapter, notwithstanding IC 36-1-2-4,  
16          "clerk" refers to the circuit court clerk of a county.**

17          **Sec. 2. As used in this chapter, "county official" refers to an  
18          individual who is a member of:**

- 19           (1) the county executive;  
20           (2) the county fiscal body;  
21           (3) the plan commission; or  
22           (4) the board of zoning appeals;

23          **for a county.**

24          **Sec. 3. As used in this chapter, "developer" means a person that  
25          seeks to:**

- 26           (1) obtain a right to locate a wind power device on real  
27           property; or  
28           (2) locate a wind power device on real property in which the  
29           person owns an interest.

30          The term includes an agent or a representative of a developer.

31          **Sec. 4. As used in this chapter, "wind power device" means a  
32          windmill, wind turbine, or other device that is powered by wind  
33          and that is designed to produce electricity.**

34          **Sec. 5. (a) A person may not locate a wind power device on real  
35          property under a lease, an easement, or another agreement unless  
36          the requirements under subsection (b) are satisfied.**

37          **(b) A person may locate a wind power device on real property  
38          under a lease, an easement, or another agreement if the developer:**

- 39           (1) registers with the clerk before the date the lease, easement,  
40           or other agreement is executed;  
41           (2) files with the county recorder for recording a list of each  
42           owner of real property, as shown on the county auditor's



1           **current tax list, whose real property is located within two (2)**  
2           **miles of the boundary of the real property that is the proposed**  
3           **location of the proposed wind power device; and**  
4           **(3) subject to section 6 of this chapter, records a copy of the**  
5           **lease, easement, or other agreement described in subsection**  
6           **(a) with the county recorder.**

7           **Sec. 6. The county recorder may not accept a lease, an easement,**  
8           **or another agreement described in section 5 of this chapter unless**  
9           **the developer provides the following:**

- 10           **(1) If the developer is an owner of the real property, a copy of**  
11           **the deed to the real property.**
- 12           **(2) If the developer is not an owner of the real property, a**  
13           **copy of the registration statement filed under section 8 of this**  
14           **chapter.**
- 15           **(3) The list of owners described in section 5(b)(2) of this**  
16           **chapter.**

17           **Sec. 7. (a) Not more than ten (10) business days after a person**  
18           **files the list required by section 5(b)(2) of this chapter and the**  
19           **lease, easement, or other agreement required by section 5(b)(3) of**  
20           **this chapter, the county recorder shall:**

- 21           **(1) provide notice, in accordance with IC 5-3-1, that includes:**
  - 22           **(A) a copy of the county's wind energy conversion system**  
23           **ordinance, if applicable;**
  - 24           **(B) a copy of the registration statement filed under section**  
25           **8 of this chapter, if any; and**
  - 26           **(C) the name and contact information of a county official**  
27           **to contact with questions about the proposed locating of a**  
28           **wind power device;**
- 29           **(2) mail to each owner of real property described in section**  
30           **5(b)(2) of this chapter a copy of the notice described in**  
31           **subdivision (1); and**
- 32           **(3) send an invoice to the developer for the county recorder's**  
33           **costs incurred under this section.**

34           **(b) The developer shall reimburse the county recorder for the**  
35           **county recorder's costs of complying with this section.**

36           **Sec. 8. A developer that seeks to locate one (1) or more wind**  
37           **power devices in a county shall file with the clerk a registration**  
38           **statement that contains the following information on a form**  
39           **provided by the clerk:**

- 40           **(1) The following information about the developer:**
  - 41           **(A) The developer's name.**
  - 42           **(B) The developer's business address.**



**SECTION 3. An emergency is declared for this act.**

