

Freudenthal proposes wind farm excise tax, other measures

Gov: Tax wind power

By DUSTIN BLEIZEFFER - Star-Tribune energy reporter | Posted: Tuesday, February 2, 2010 12:00

Gov. Dave Freudenthal is pushing several bills to regulate the wind energy industry. Chief among them are a \$3 per megawatt hour excise tax, and a temporary suspension of eminent domain powers to "merchant" energy companies that want to connect wind turbines to the electrical grid.

The governor said he is supporting four separate bills dealing with wind energy, two of which originate from the Legislature's Task Force on Wind Energy, which was created at the end of the 2009 legislative session. He also said he's asking for \$25,000 in the budget to continue the work of the task force for another year.

Freudenthal announced the legislative measures during a media conference on Monday in which he described the budding wind energy industry as the "du jour" energy choice of the moment, "ever since you had Al Gore and 'An Inconvenient Truth.'"

Wind energy became a wedge between neighbors in Wyoming last year, separating those landowners who stand to benefit from the development and those who will only see their views obscured by wind turbines and power lines. Freudenthal and others have accused the industry of running amok before the state has a chance to modify its rules to fit an industry it never anticipated.

Cheryl Riley, executive director of the Wyoming Power Producers Coalition, said her group is reserving comment on the governor's proposals and will continue to work with the governor's staff and state legislators on the issues.

"It's the very beginning of the deliberation," Riley said.

Here's a breakdown of the legislative proposals announced by the governor:

- * Retool the Wyoming Industrial Information and Siting Act to include wind farms of 30 turbines or more. Developers of such projects would be required to provide bonding or other financial assurances to ensure decommissioning and reclamation.
- * Provide minimum state standards, such as buffer zones between wind turbines and other existing facilities. Counties would be allowed to provide their standards that go beyond the state's minimum requirements.
- * Impose a \$3 per megawatt hour excise tax on wind energy produced in Wyoming, which compares to about a 5 percent severance tax on minerals. This includes a provision to send 40 percent of the revenues to local governments and 60 percent to the state General Fund.
- * Suspend the power of condemnation, or eminent domain, for one year "where it might be used to gain access to private lands to construct wind energy collector lines." The purpose is to give the Legislature a year to study the issue before adopting a permanent solution.

Craig Cox, executive director of the wind energy association Interwest Energy Alliance, said the industry supports the idea of setting some minimum standards regarding buffer zones and reclamation.

"If we can get certainty from whatever the Legislature passes, that's important," Cox said. "And it's important not to confuse certainty with punitive measures."

Cox said the excise tax is not a popular idea among wind energy developers, but he said states often do seek some sort of production tax.

"Just so we aren't killing the goose that lays the golden egg," Cox said.

The proposed tax is estimated to generate \$5.9 million per year to the six counties where wind projects are already in operation, according to Freudenthal. He said Converse County would receive the largest share of that figure, an estimated \$2.25 million in 2011.

The excise tax is comparable to the severance tax rates paid by the oil and natural gas industries. Freudenthal said it's also an attempt to weed out speculators and make sure the industry is paying its fair share to Wyoming residents just like the oil, natural gas, coal and other mineral industries.

"While wind energy is one of the heroes of the former vice president's 'Inconvenient Truth' and it enjoys a most favored position in the federal tax code, we must remember that it remains a profit-oriented business that should be treated the same as other energy producers," Freudenthal said in a prepared statement.

Limited reforms were made to Wyoming's eminent domain laws in 2007 following about 10 years of booming natural gas development in the state. But suspending the power of condemnation wielded against private property owners by oil and gas companies was not on the table.

On Monday, Freudenthal assured that his proposed one-year suspension would not extend to the oil and gas industry, or any other industry but wind. He said the reason for singling out the wind energy industry at this time is because it's a concern that generates the most complaints.

Wyoming has experienced a boom in wind energy development, with more than 450 new wind turbines during the past 1 1/2 years. Yet Wyoming's installed wind energy capacity of about 900 megawatts pales in comparison to its estimated potential of 100,000 megawatts because of the state's Class 5, 6 and 7 wind resources.

Industry officials estimate that a more likely build-out is on the order of 15,000 megawatts, or about 8,500 wind turbines. But the industry expects a serious lull in development during the next five or so years until major new electrical transmission is built to take the green energy to market.

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