

SUBJECT: Allowing designation of areas prohibiting wind-powered energy devices

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 10 ayes — Paddie, Hernandez, Deshotel, Harless, P. King, Metcalf,
Raymond, Shaheen, Slawson, Smithee

0 nays

3 absent — Howard, Hunter, Lucio

WITNESSES: For — Randy Nunns, Devils River Conservancy; John Shepperd, Texas Foundation for Conservation; Patrick Jenevein; (*Registered, but did not testify*: Robert Spalding, SEMPRES, Inc.; Carrie Simmons, Conservative Texans for Energy Innovation and Texas Chapter of the Wildlife Society; Julie Lewey, Devils River Conservancy; David Yeates, Texas Wildlife Association; Marcus Owenby)

Against — Stephen Lindsey, GH America Investments; (*Registered, but did not testify*: Amber Hausenfluck, Apex Clean Energy; Eric Wright, EDP Renewables and Orsted; Mike Meroney, Enel North America; and 16 individuals)

On — Jeffrey Clark, Advanced Power Alliance; Rodney Franklin, Texas Parks and Wildlife Department; (*Registered, but did not testify*: Cyrus Reed, Lone Star Chapter, Sierra Club; Laura Zebehazy, Texas Parks and Wildlife Department)

DIGEST: HB 783 would allow the Texas Parks and Wildlife Commission to adopt rules that designate certain areas where the installation of a wind-powered energy device, as covered by the bill, was not authorized. A person who violated the rules would be subject to a civil penalty.

Applicability. The bill would apply only in a county in which all or part of the Devils River State Natural Area is located or to an adjacent county.

Rules. In adopting rules, the commission would have to consider:

- the protection of natural resources, including the avoidance of visual or acoustic impacts near a national recreational area, state natural area, park, lake, or river;
- the protection of public health and safety;
- the enjoyment of protected lands; and
- other factors the commission determines necessary to achieve the purpose of the bill.

"Protected lands" would mean state or federal parks or recreational areas with environmental, recreational, historical, aesthetic, ecological, or cultural value.

An adopted rule could not apply to a wind-powered energy device installed before the bill's effective date.

Civil penalty. A person who violated the bill's provisions would be subject to a civil penalty of \$100 to \$10,000 for each violation and for each day of violation.

If a person had violated, was violating, or threatened to violate an adopted rule, the Texas Parks and Wildlife Department could bring suit for injunctive relief to restrain the person from continuing the violation or threat of violation and to recover the civil penalty.

Effective date. This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

SUPPORTERS
SAY:

HB 783 would preserve the environmental, cultural, and recreational value of the Devils River State Natural Area by enabling the Texas Parks and Wildlife Commission to adopt rules that prohibit future wind turbine development in or near that area.

Wind turbines create significant issues for natural areas, including light

pollution, disrupting native endangered species' habitats, diminishing the natural beauty of public lands, and interfering with the military's ability to distinguish between military and civilian aircraft.

The bill is necessary to conserve the pristine Devils River area, which was designated in 2019 as the state's first International Dark Sky Sanctuary. Prohibiting future wind turbine development would ensure Texans had continued access to an iconic landscape without man-made structures.

CRITICS
SAY:

By granting the Texas Parks and Wildlife Commission excessive authority to prohibit private companies from installing wind turbines in the Devils River State Natural Area, HB 783 could set a precedent for other areas in Texas and for other energy sectors. The Legislature should allow the free market to operate without government interference.