

WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM

Date: 3/3/22

Weekly Agenda Date: 3/8/22

ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN: Chairman, Keith Radig

WORDING FOR AGENDA ITEM:

Consideration of An Ordinance Relating to the Assessment of Wind Energy Conversion Property as Authorized by Iowa Code Chapter 427B.26

ACTION REQUIRED:

Approve Ordinance

Approve Resolution

Approve Motion

Public Hearing

Other: Informational

Attachments

EXECUTIVE SUMMARY:

The Board will consider passing and approving an ordinance to provide the special valuation of wind energy conversion property as provided by Iowa Code Section 427B.26.

The county has met the statutory requirements to approve an 427B.26 ordinance.

12/7/21, Public Hearing/1st Reading
12/14/21, Public Hearing/2nd Reading
12/21/21, Public Hearing/3rd Reading
01/11/22, Consideration of Approval

Pursuant to Iowa Code Section 427B.26, a special valuation of wind energy conversion property is allowed if a county adopts an ordinance. Wind energy conversion property first assessed on or after the effective date of the proposed ordinance shall be valued by the County Assessor for property tax purposes as follows:

- a. For the first assessment year, at zero (0%) of the net acquisition cost.
- b. For the second through sixth assessment years, at the percent of the net acquisition cost which rate increases by five (5%) each assessment year.
- c. For the seventh and succeeding assessment years, at thirty percent (30%) of the net acquisition cost.

BACKGROUND:

The County has met the requirements to approve an 427B.26 ordinance. During the public hearing process, the County realized there was some "grey area" in the current code as it relates to cities/counties that have not adopted an 427B.26 ordinance and there are commercial wind development structures in those respective jurisdictions. This was affirmed by various staff from the Iowa Dept. of Revenue (IDR). As such, there was consensus from the Board during their 1/11/22 meeting to have Assistant County Attorney Widman and Community & Economic Development Director Gleiser, consult with outside bond counsel on this matter before taking up the ordinance for a final vote. During the preliminary discussions with bond counsel, they acknowledged Assistant County Attorney Widman's analysis of the "grey area" and stated they would contact IDR staff for some insight on what the Utility Replacement Tax Task Force might do as it relates to this topic and the current legislative session. Shortly thereafter, County Assessor Connelly informed Widman & Gleiser that the Task Force had drafted language to clarify the "grey area" of the Code, and to make it abundantly clear that if a city or county has not adopted an 427B.26 ordinance and a commercial wind development occurs, those structures are to be state assessed and subject to utility replacement tax, thus eliminating any possibility of a City or County Assessor having the authority to assess these structures locally at 100% valuation. Shortly after that, bond counsel informed Widman & Gleiser that the Task Force had submitted Senate Study Bill 3130 (SSB3130) to the Iowa legislature in an attempt to make the Task Force's recommendation law.

The Bill is being managed on the Floor by Senator Waylon Brown (R) District 26. As of 3/3/22, the Bill's history is as follows:

02/23/2022 Committee report approving bill, renumbered as SF 2366.
02/22/2022 Subcommittee recommends amendment and passage.
02/17/2022 Subcommittee Meeting: 02/22/2022 8:30AM Room G17.
02/09/2022 Subcommittee: Brown, Dawson, and Dotzler.
02/09/2022 Introduced, referred to Ways and Means.

While bond counsel did not provide Widman & Gleiser with a written opinion on what they believe is likely to happen if Woodbury County does not adopt a 427B.26 ordinance and a commercial wind development occurs and the County Assessor assess that property locally at 100%, they did state that SSB3130 would resolve the ambiguities of the "grey area" should it be adopted.

FINANCIAL IMPACT:

The financial impact of adopting the 427B.26 ordinance is the amount of property taxes the county would collect as provided by law, which is unequivocally greater than the amount of taxes the county would receive from the state in the form of utility replacement tax for the same structures.

IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?

Yes No

RECOMMENDATION:

Adopt the 427B.26 ordinance.

ACTION REQUIRED / PROPOSED MOTION:

Motion to adopt the 427.26 ordinance.

427B.26 Ordinance

Year	%	Total Taxable	After Rollback	Tax Rate - Woodbury Central Menville	Total
1	0%	\$150,000,000	\$ 135,000,000	25.036659	\$ -
2	5%	\$150,000,000	\$ 6,750,000	25.036659	\$ 171,224
3	10%	\$150,000,000	\$ 13,500,000	25.036659	\$ 342,449
4	15%	\$150,000,000	\$ 20,250,000	25.036659	\$ 513,673
5	20%	\$150,000,000	\$ 27,000,000	25.036659	\$ 684,898
6	25%	\$150,000,000	\$ 33,750,000	25.036659	\$ 856,122
7	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
8	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
9	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
10	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
11	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
12	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
13	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
14	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
15	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
16	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
17	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
18	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
19	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
20	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
21	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
22	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
23	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
24	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
25	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
26	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
27	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
28	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
29	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
30	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
31	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
32	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
33	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
34	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
35	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
36	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
37	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
38	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
39	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
40	30%	\$150,000,000	\$ 40,500,000	25.036659	\$ 1,027,347
					\$ 37,498,164

Utility Replacement Tax

Year	Total	
1	\$ 210,240	
2	\$ 210,240	
3	\$ 210,240	
4	\$ 210,240	
5	\$ 210,240	
6	\$ 210,240	
7	\$ 210,240	
8	\$ 210,240	
9	\$ 210,240	
10	\$ 210,240	
11	\$ 210,240	
12	\$ 210,240	
13	\$ 210,240	
14	\$ 210,240	
15	\$ 210,240	
16	\$ 210,240	
17	\$ 210,240	
18	\$ 210,240	
19	\$ 210,240	
20	\$ 210,240	
21	\$ 210,240	
22	\$ 210,240	
23	\$ 210,240	
24	\$ 210,240	
25	\$ 210,240	
26	\$ 210,240	
27	\$ 210,240	
28	\$ 210,240	
29	\$ 210,240	
30	\$ 210,240	
31	\$ 210,240	
32	\$ 210,240	
33	\$ 210,240	
34	\$ 210,240	
35	\$ 210,240	
36	\$ 210,240	
37	\$ 210,240	
38	\$ 210,240	
39	\$ 210,240	
40	\$ 210,240	
		\$ 8,409,600

100MW x 1000 = 100,000 kW

100,000 kW x .40 (estimated 40% capacity factor) x 365 days x 24 hours = 350,400,000 kWh estimated annual generation

350,400,000 kWh x .0006 (replacement tax rate) = \$ 210,240

\$ 29,088,564

Senate Study Bill 3130 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON DAWSON)

A BILL FOR

1 An Act relating to the assessment and taxation of wind energy
2 conversion property and including effective date and
3 retroactive applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 427B.26, subsection 1, paragraph b, Code
2 2022, is amended to read as follows:

3 b. If in the opinion of the city council or the county
4 board of supervisors continuation of the special valuation
5 provided under [this section](#) ceases to be of benefit to the
6 city or county, the city council or the county board of
7 supervisors may repeal the ordinance authorized by this
8 subsection. Property specially valued under [this section](#) prior
9 to repeal of the ordinance shall continue to be valued under
10 this section until the end of the nineteenth assessment year
11 following the assessment year in which the property was first
12 assessed. Following repeal of the ordinance and conclusion of
13 the applicable nineteen-year period, the wind energy conversion
14 property shall be subject to assessment and taxation under
15 chapter 437A, section 441.21, subsection 8, paragraphs "b", "c",
16 and "d", or sections 428.24 through 428.26, 428.28, and 428.29,
17 as applicable.

18 Sec. 2. Section 427B.26, subsection 2, unnumbered paragraph
19 1, Code 2022, is amended to read as follows:

20 In lieu of the valuation and assessment provisions in
21 chapter 437A, section 441.21, subsection 8, paragraphs "b", "c",
22 and "d", and sections 428.24 through 428.26, 428.28, and 428.29,
23 as applicable, wind energy conversion property which is first
24 assessed for property taxation on or after January 1, 1994,
25 and on or after the effective date of the ordinance enacted
26 pursuant to [subsection 1](#), shall be valued by the local assessor
27 for property tax purposes as follows:

28 Sec. 3. Section 427B.26, subsections 3 and 4, Code 2022, are
29 amended to read as follows:

30 3. a. The taxpayer shall file with the local assessor by
31 February 1 of the assessment year in which the wind energy
32 conversion property is first assessed for property tax
33 purposes, a declaration of intent to have the property assessed
34 at the value determined under [this section](#) in lieu of the
35 valuation and assessment provisions in chapter 437A, section

1 441.21, subsection 8, paragraphs "b", "c", and "d", and sections
2 428.24 through 428.26, 428.28, and 428.29, as applicable.

3 b. Maintaining, refurbishing, or repowering wind energy
4 conversion property shall not cause the wind energy conversion
5 property to receive a new assessment schedule under subsection
6 2.

7 4. For purposes of this section:

8 a. "Collector substation" means an electrical substation
9 designed to collect energy from multiple electricity-generating
10 sources.

11 ~~a.~~ b. "Net acquisition cost" means the acquired cost of the
12 property including all foundations and installation cost less
13 any excess cost adjustment.

14 c. "Repowering" means the removal and replacement of
15 components of wind energy conversion property.

16 ~~b.~~ d. "Wind energy conversion property" means the entire
17 wind plant including, but not limited to, a wind charger,
18 windmill, wind turbine, tower and electrical equipment, pad
19 mount transformers, power lines, and collector substation.

20 Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate
21 importance, takes effect upon enactment.

22 Sec. 5. RETROACTIVE APPLICABILITY. This Act applies
23 retroactively to assessment years beginning on or after January
24 1, 2022.

25 EXPLANATION

26 The inclusion of this explanation does not constitute agreement with
27 the explanation's substance by the members of the general assembly.

28 Code section 427B.26 governs the special valuation of
29 wind energy conversion property for such property covered by
30 an ordinance adopted by a city council or county board of
31 supervisors.

32 This bill specifies that the special valuation provisions
33 authorized by local ordinance, in addition to other provisions
34 identified in Code section 427B.26, are in lieu of the
35 assessment and taxation provisions of Code chapter 437A

1 (electricity replacement tax).

2 If such ordinance is repealed, property specially valued
3 under Code section 427B.26 shall continue to be valued under
4 that Code section until the end of the 19th assessment year
5 following the assessment year in which the property was first
6 assessed. The bill specifies the other provisions of law that
7 govern the assessment and taxation of such property after
8 conclusion of the applicable 19-year period.

9 The bill also provides that maintaining, refurbishing, or
10 repowering wind energy conversion property shall not cause
11 the wind energy conversion property to receive a new special
12 valuation schedule under Code section 427B.26. The bill
13 defines "repowering" and modifies the definition of "wind
14 energy conversion property" to specify that substations that
15 are "collector substations", as defined in the bill, are wind
16 energy conversion property.

17 The bill takes effect upon enactment and applies
18 retroactively to assessment years beginning on or after January
19 1, 2022.

WOODBURY COUNTY, IOWA
ORDINANCE NO. _____

**AN ORDINANCE RELATING TO THE ASSESSMENT OF WIND ENERGY
CONVERSION PROPERTY AS AUTHORIZED BY IOWA CODE CHAPTER 427B.26**

BE IT ENACTED BY THE BOARD OF SUPERVISORS OF WOODBURY COUNTY, IOWA:

SECTION 1. PURPOSE

The purpose of this Ordinance is to provide for the special valuation of wind energy conversion property pursuant to Iowa Code Section 427B.26.

SECTION 2. DEFINITIONS

For use in this Ordinance, certain terms and words used herein shall be interpreted or defined as follows:

- A.) "Net Acquisition Cost" means the acquired cost of the property including all foundations and installation cost less any excess cost adjustment.
- B.) "Wind Energy Conversion Property" means the entire windplant including, but not limited to, a wind charger, windmill, wind turbine, tower and electrical equipment, pad mount transformers, power lines and substation.

SECTION 3. AUTHORITY TO ESTABLISH

The Board of Supervisors is authorized, pursuant to Iowa Code Section 427B.26 to provide by ordinance for special valuation of wind energy conversion property as provided in Section 4.

SECTION 4. ESTABLISHMENT

Pursuant to Iowa Code Section 427B.26, a special valuation of wind energy conversion property is allowed in lieu of the valuation assessment provisions in Iowa Code Section 441.21(8)(b) and (c), and Iowa Code Sections 428.24 to 428.29. The special valuation shall only apply to wind energy conversion property first assessed on or after the effective date of this Ordinance.

SECTION 5. AMOUNT OF VALUATION

Wind energy conversion property first assessed on or after the effective date of the Ordinance shall be valued by the County Assessor for property tax purposes as follows:

- A.) For the first assessment year, at zero percent (0%) of the net acquisition cost.
- B.) For the second through sixth assessment years, at a percent of the net acquisition cost which rate increases by five percent (5%) each assessment year.
- C.) For the seventh and succeeding assessment years, at thirty percent (30%) of the net acquisition cost.

SECTION 6. DECLARATION OF SPECIAL VALUATION

The taxpayer shall file with the County Assessor by February 1 of the assessment year in which the wind energy conversion property is first assessed for property tax purposes, a declaration of intent to have the property assessed at the value determined under Section 5 in lieu of the valuation assessment provisions in Iowa Code Section 441.21(9)(b) and (c), and Iowa Code Sections 428.24 to 428.29.

If the taxpayer does not file with the County Assessor by February 1 of the assessment year for which the person files a declaration of intent to have the property assessed as provided above, then the declaration of intent shall be considered as a declaration filed for the following year.

SECTION 7. REPORTING REQUIREMENTS

The following reports shall be filed annually with the County Assessor by the taxpayer; in the first year, with the declaration of intent as prescribed in Section 6; and by Feb. 1 of each year thereafter.

- A.) Copy of Asset ledger sheet to IRS;
- B.) Engineering breakdown of component parts;
- C.) Tower numbering system;
- D.) Name of contact person, phone number, fax number and mailing address;
- E.) Report of all leased equipment, the name(s) of the company(s) it is leased from, and the agreement between the lessor and lessee regarding who is responsible for the property tax on the leased equipment.

SECTION 8. REPEAL OF SPECIAL VALUATION

If in the opinion of the Board of Supervisors, continuation of the special valuation provided under Sections 4 and 5 ceases to be of benefit to the County, the Board of Supervisors may repeal the Ordinance. Property specially valued in accordance with the above prior to the repeal of this Ordinance shall continue to be so valued until the end of the nineteenth (19th) assessment year following the assessment year in which the property was first assessed.

SECTION 9. REPEALER

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 10. SEVERABILITY CLAUSE

If any section, provision, or other part of this Ordinance shall be adjudged invalid or unconstitutional, said adjudication shall not affect the validity of the Ordinance as a whole or any section, provision, or other part thereof not adjudged invalid or unconstitutional.

SECTION 11. PENALTY

Any person, firm or corporation violating any regulation in or any provision of this Ordinance or of any amendment or supplement thereto, shall be guilty of a simple misdemeanor which is punishable by a fine of not more than One Hundred Dollars (\$100) or by imprisonment of not more than thirty (30) days and shall be guilty of a county infraction punishable by a civil penalty of not more than One Hundred Dollars (\$100), or if the infraction is a repeat offense, by a civil penalty not to exceed Two Hundred Dollars (\$200). Each day that a violation occurs or is permitted by the Defendant to exist, constitutes a separate offense.

SECTION 11. EFFECTIVE DATE

This Ordinance shall become effective after final passage, approval, and publication as provided by law.

Passed and Approved this 3rd day of March, 2022.

ATTEST:

WOODBURY COUNTY BOARD OF SUPERVISORS

Patrick Gill, Woodbury County Auditor

Keith Radig, Chairman

First Reading: 12/7/21

Jeremy Taylor, Vice-Chairman

Second Reading: 12/14/21

Rocky DeWitt, Member

Third Reading: 12/21/21

Matthew Ung, Member

Approved: _____

Published: _____

Justin Wright, Member

Effective: _____