



Rep. Adam Brown

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LRB099 09392 MLM 32299 a

1 AMENDMENT TO HOUSE BILL 3523

2 AMENDMENT NO. _____. Amend House Bill 3523 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Wind
5 Energy Facilities Agricultural Impact Mitigation Act.

6 Section 5. Purpose. The primary purpose of this Act is to
7 promote the State's welfare by protecting landowners during the
8 construction and deconstruction of commercial wind energy
9 facilities.

10 Section 10. Definitions. As used in this Act:

11 "Agricultural impact mitigation agreement" means an
12 agreement between the commercial wind energy facility owner and
13 the Department of Agriculture described in Section 15 of this
14 Act.

15 "Commercial wind energy facility" means a wind energy

1 conversion facility of equal or greater than 500 kilowatts in
2 total nameplate generating capacity that has not already been
3 constructed or received a permit by a decision of a county or
4 municipality prior to the effective date of this Act. However,
5 a wind energy conversion facility seeking an extension of a
6 permit granted by a county or municipality prior to the
7 effective date of this Act shall be considered a commercial
8 wind energy facility.

9 "Commercial wind energy facility owner" means a private
10 commercial enterprise that owns or operates a commercial wind
11 energy facility.

12 "Construction" means the installation, preparation for
13 installation, or repair of a commercial wind energy facility.

14 "Deconstruction" means the removal of a commercial wind
15 energy facility from the property of a landowner and the
16 restoration of that property as provided in the agricultural
17 impact mitigation agreement.

18 "Department" means the Department of Agriculture.

19 "Landowner" means any person (1) with an ownership interest
20 in property that is used for agricultural purposes and (2) that
21 is a party to an underlying agreement.

22 "Underlying agreement" means the written agreement with a
23 landowner, including, but not limited to, an easement, option,
24 lease, or license, under the terms of which another person has
25 constructed, constructs, or intends to construct a commercial
26 wind energy facility on the property of the landowner.

1 Section 15. Agricultural impact mitigation agreement.

2 (a) A commercial wind energy facility owner of a commercial
3 wind energy facility located on landowner property shall enter
4 into an agricultural impact mitigation agreement with the
5 Department outlining construction and deconstruction standards
6 and policies designed to preserve the integrity of any
7 agricultural land that is impacted by commercial wind energy
8 facility construction and deconstruction.

9 (b) The agricultural impact mitigation agreement shall
10 include, but is not limited to, such items as restoration of
11 agricultural land affected by construction, deconstruction,
12 construction staging, and storage areas; support structures;
13 aboveground facilities; guy wires and anchors; underground
14 cabling depth; topsoil replacement; protection and repair of
15 agricultural drainage tiles; rock removal; repair of
16 compaction and rutting; land leveling; prevention of soil
17 erosion; repair of damaged soil conservation practices;
18 compensation for damages to private property; clearing of trees
19 and brush; interference with irrigation systems; access roads;
20 weed control; pumping of water from open excavations; advance
21 notice of access to private property; indemnification of
22 landowners; and deconstruction plans and financial assurance
23 for deconstruction.

24 (c) For commercial wind energy facility owners seeking a
25 permit from a county or municipality for the construction of a

1 commercial wind energy facility, the agricultural impact
2 mitigation agreement shall be entered into prior to the public
3 hearing required prior to a siting decision of a county or
4 municipality regarding the commercial wind energy facility.
5 The agricultural impact mitigation agreement is binding on any
6 subsequent commercial wind energy facility owner that takes
7 ownership of the commercial wind energy facility that is the
8 subject of the agreement.

9 (d) If a commercial wind energy facility owner seeks an
10 extension of a permit granted by a county or municipality for
11 the construction of a commercial wind energy facility prior to
12 the effective date of this Act, the agricultural impact
13 mitigation agreement shall be entered into prior to a decision
14 by the county or municipality to grant the permit extension.

15 (e) The Department shall adopt rules that are necessary and
16 appropriate for the implementation and administration of
17 agricultural impact mitigation agreements as required under
18 this Act.

19 Section 90. The Counties Code is amended by changing
20 Section 5-12020 as follows:

21 (55 ILCS 5/5-12020)

22 Sec. 5-12020. Wind farms. A county may establish standards
23 for wind farms and electric-generating wind devices. The
24 standards may include, without limitation, the height of the

1 devices and the number of devices that may be located within a
2 geographic area. A county may also regulate the siting of wind
3 farms and electric-generating wind devices in unincorporated
4 areas of the county outside of the zoning jurisdiction of a
5 municipality and the 1.5 mile radius surrounding the zoning
6 jurisdiction of a municipality. There shall be at least one
7 public hearing not more than 30 days prior to a siting decision
8 by the county board. Notice of the hearing shall be published
9 in a newspaper of general circulation in the county. A
10 commercial wind energy facility owner, as defined in the Wind
11 Energy Facilities Agricultural Impact Mitigation Act, must
12 enter into an agricultural impact mitigation agreement with the
13 Department of Agriculture prior to the date of the required
14 public hearing. A commercial wind energy facility owner seeking
15 an extension of a permit granted by a county prior to the
16 effective date of this amendatory Act of the 99th General
17 Assembly must enter into an agricultural impact mitigation
18 agreement with the Department of Agriculture prior to a
19 decision by the county to grant the permit extension. Counties
20 may allow test wind towers to be sited without formal approval
21 by the county board. Any provision of a county zoning ordinance
22 pertaining to wind farms that is in effect before the effective
23 date of this amendatory Act of the 95th General Assembly may
24 continue in effect notwithstanding any requirements of this
25 Section.

26 A county may not require a wind tower or other renewable

1 energy system that is used exclusively by an end user to be
2 setback more than 1.1 times the height of the renewable energy
3 system from the end user's property line.

4 (Source: P.A. 95-203, eff. 8-16-07; 96-306, eff. 1-1-10;
5 96-566, eff. 8-18-09; 96-1000, eff. 7-2-10.)

6 Section 95. The Illinois Municipal Code is amended by
7 changing Section 11-13-26 as follows:

8 (65 ILCS 5/11-13-26)

9 Sec. 11-13-26. Wind farms.

10 (a) A municipality may regulate wind farms and
11 electric-generating wind devices within its zoning
12 jurisdiction and within the 1.5 mile radius surrounding its
13 zoning jurisdiction. There shall be at least one public hearing
14 not more than 30 days prior to a siting decision by the
15 corporate authorities of a municipality. Notice of the hearing
16 shall be published in a newspaper of general circulation in the
17 municipality. A commercial wind energy facility owner, as
18 defined in the Wind Energy Facilities Agricultural Impact
19 Mitigation Act, must enter into an agricultural impact
20 mitigation agreement with the Department of Agriculture prior
21 to the date of the required public hearing. A commercial wind
22 energy facility owner seeking an extension of a permit granted
23 by a municipality prior to the effective date of this
24 amendatory Act of the 99th General Assembly must enter into an

1 agricultural impact mitigation agreement with the Department
2 of Agriculture prior to a decision by the municipality to grant
3 the permit extension. A municipality may allow test wind towers
4 to be sited without formal approval by the corporate
5 authorities of the municipality. Test wind towers must be
6 dismantled within 3 years of installation. For the purposes of
7 this Section, "test wind towers" are wind towers that are
8 designed solely to collect wind generation data.

9 (b) A municipality may not require a wind tower or other
10 renewable energy system that is used exclusively by an end user
11 to be setback more than 1.1 times the height of the renewable
12 energy system from the end user's property line. A setback
13 requirement imposed by a municipality on a renewable energy
14 system may not be more restrictive than as provided under this
15 subsection. This subsection is a limitation of home rule powers
16 and functions under subsection (i) of Section 6 of Article VII
17 of the Illinois Constitution on the concurrent exercise by home
18 rule units of powers and functions exercised by the State.

19 (Source: P.A. 95-203, eff. 8-16-07; 96-306, eff. 1-1-10.)

20 Section 99. Effective date. This Act takes effect upon
21 becoming law."