



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB1163

Introduced 1/9/2025, by Rep. Chris Miller

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-12020

Amends the Counties Code. Provides that a commercial wind energy facility owner or solar energy facility owner must file a land reclamation plan and a recycling plan with the Department of Agriculture prior to the required public hearing on the siting of a facility. Provides that the land reclamation plan must outline how the property on which a facility has been constructed will be returned to the state the property existed prior to the construction of the facility upon removal of the facility. Provides that the recycling plan must outline how the material used to construct the facility will be recycled. Provides that a commercial solar energy facility may not be sited on property where the property's soil's crop productivity index is greater than 110. Effective immediately.

LRB104 06385 RTM 16421 b

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by changing
5 Section 5-12020 as follows:

6 (55 ILCS 5/5-12020)

7 Sec. 5-12020. Commercial wind energy facilities and
8 commercial solar energy facilities.

9 (a) As used in this Section:

10 "Commercial solar energy facility" means a "commercial
11 solar energy system" as defined in Section 10-720 of the
12 Property Tax Code. "Commercial solar energy facility" does not
13 mean a utility-scale solar energy facility being constructed
14 at a site that was eligible to participate in a procurement
15 event conducted by the Illinois Power Agency pursuant to
16 subsection (c-5) of Section 1-75 of the Illinois Power Agency
17 Act.

18 "Commercial wind energy facility" means a wind energy
19 conversion facility of equal or greater than 500 kilowatts in
20 total nameplate generating capacity. "Commercial wind energy
21 facility" includes a wind energy conversion facility seeking
22 an extension of a permit to construct granted by a county or
23 municipality before January 27, 2023 (the effective date of

1 Public Act 102-1123).

2 "Facility owner" means (i) a person with a direct
3 ownership interest in a commercial wind energy facility or a
4 commercial solar energy facility, or both, regardless of
5 whether the person is involved in acquiring the necessary
6 rights, permits, and approvals or otherwise planning for the
7 construction and operation of the facility, and (ii) at the
8 time the facility is being developed, a person who is acting as
9 a developer of the facility by acquiring the necessary rights,
10 permits, and approvals or by planning for the construction and
11 operation of the facility, regardless of whether the person
12 will own or operate the facility.

13 "Nonparticipating property" means real property that is
14 not a participating property.

15 "Nonparticipating residence" means a residence that is
16 located on nonparticipating property and that is existing and
17 occupied on the date that an application for a permit to
18 develop the commercial wind energy facility or the commercial
19 solar energy facility is filed with the county.

20 "Occupied community building" means any one or more of the
21 following buildings that is existing and occupied on the date
22 that the application for a permit to develop the commercial
23 wind energy facility or the commercial solar energy facility
24 is filed with the county: a school, place of worship, day care
25 facility, public library, or community center.

26 "Participating property" means real property that is the

1 subject of a written agreement between a facility owner and
2 the owner of the real property that provides the facility
3 owner an easement, option, lease, or license to use the real
4 property for the purpose of constructing a commercial wind
5 energy facility, a commercial solar energy facility, or
6 supporting facilities. "Participating property" also includes
7 real property that is owned by a facility owner for the purpose
8 of constructing a commercial wind energy facility, a
9 commercial solar energy facility, or supporting facilities.

10 "Participating residence" means a residence that is
11 located on participating property and that is existing and
12 occupied on the date that an application for a permit to
13 develop the commercial wind energy facility or the commercial
14 solar energy facility is filed with the county.

15 "Protected lands" means real property that is:

16 (1) subject to a permanent conservation right
17 consistent with the Real Property Conservation Rights Act;
18 or

19 (2) registered or designated as a nature preserve,
20 buffer, or land and water reserve under the Illinois
21 Natural Areas Preservation Act.

22 "Supporting facilities" means the transmission lines,
23 substations, access roads, meteorological towers, storage
24 containers, and equipment associated with the generation and
25 storage of electricity by the commercial wind energy facility
26 or commercial solar energy facility.

1 "Wind tower" includes the wind turbine tower, nacelle, and
2 blades.

3 (b) Notwithstanding any other provision of law or whether
4 the county has formed a zoning commission and adopted formal
5 zoning under Section 5-12007, a county may establish standards
6 for commercial wind energy facilities, commercial solar energy
7 facilities, or both. The standards may include all of the
8 requirements specified in this Section but may not include
9 requirements for commercial wind energy facilities or
10 commercial solar energy facilities that are more restrictive
11 than specified in this Section. A county may also regulate the
12 siting of commercial wind energy facilities with standards
13 that are not more restrictive than the requirements specified
14 in this Section in unincorporated areas of the county that are
15 outside the zoning jurisdiction of a municipality and that are
16 outside the 1.5-mile radius surrounding the zoning
17 jurisdiction of a municipality.

18 (c) If a county has elected to establish standards under
19 subsection (b), before the county grants siting approval or a
20 special use permit for a commercial wind energy facility or a
21 commercial solar energy facility, or modification of an
22 approved siting or special use permit, the county board of the
23 county in which the facility is to be sited or the zoning board
24 of appeals for the county shall hold at least one public
25 hearing. The public hearing shall be conducted in accordance
26 with the Open Meetings Act and shall be held not more than 60

1 days after the filing of the application for the facility. The
2 county shall allow interested parties to a special use permit
3 an opportunity to present evidence and to cross-examine
4 witnesses at the hearing, but the county may impose reasonable
5 restrictions on the public hearing, including reasonable time
6 limitations on the presentation of evidence and the
7 cross-examination of witnesses. The county shall also allow
8 public comment at the public hearing in accordance with the
9 Open Meetings Act. The county shall make its siting and
10 permitting decisions not more than 30 days after the
11 conclusion of the public hearing. Notice of the hearing shall
12 be published in a newspaper of general circulation in the
13 county. A facility owner must enter into an agricultural
14 impact mitigation agreement and file a land reclamation plan
15 and a recycling plan with the Department of Agriculture prior
16 to the date of the required public hearing. The land
17 reclamation plan must outline how the property on which a
18 facility has been constructed will be returned to the state
19 the property existed prior to the construction of the facility
20 upon removal of the facility. The recycling plan must outline
21 how the material used to construct the facility will be
22 recycled. A commercial wind energy facility owner seeking an
23 extension of a permit granted by a county prior to July 24,
24 2015 (the effective date of Public Act 99-132) must enter into
25 an agricultural impact mitigation agreement with the
26 Department of Agriculture prior to a decision by the county to

1 grant the permit extension. Counties may allow test wind
 2 towers or test solar energy systems to be sited without formal
 3 approval by the county board.

4 (d) A county with an existing zoning ordinance in conflict
 5 with this Section shall amend that zoning ordinance to be in
 6 compliance with this Section within 120 days after January 27,
 7 2023 (the effective date of Public Act 102-1123).

8 (e) A county may require:

9 (1) a wind tower of a commercial wind energy facility
 10 to be sited as follows, with setback distances measured
 11 from the center of the base of the wind tower:

12	Setback Description	Setback Distance
13	Occupied Community	2.1 times the maximum blade tip
14	Buildings	height of the wind tower to the
15		nearest point on the outside
16		wall of the structure
17	Participating Residences	1.1 times the maximum blade tip
18		height of the wind tower to the
19		nearest point on the outside
20		wall of the structure
21	Nonparticipating Residences	2.1 times the maximum blade tip
22		height of the wind tower to the

1		nearest point on the outside
2		wall of the structure
3	Boundary Lines of	None
4	Participating Property	
5	Boundary Lines of	1.1 times the maximum blade tip
6	Nonparticipating Property	height of the wind tower to the
7		nearest point on the property
8		line of the nonparticipating
9		property
10	Public Road Rights-of-Way	1.1 times the maximum blade tip
11		height of the wind tower
12		to the center point of the
13		public road right-of-way
14	Overhead Communication and	1.1 times the maximum blade tip
15	Electric Transmission	height of the wind tower to the
16	and Distribution Facilities	nearest edge of the property
17	(Not Including Overhead	line, easement, or
18	Utility Service Lines to	right-of-way
19	Individual Houses or	containing the overhead line
20	Outbuildings)	
21	Overhead Utility Service	None

1 Lines to Individual
 2 Houses or Outbuildings

3 Fish and Wildlife Areas 2.1 times the maximum blade
 4 and Illinois Nature tip height of the wind tower
 5 Preserve Commission to the nearest point on the
 6 Protected Lands property line of the fish and
 7 wildlife area or protected
 8 land

9 This Section does not exempt or excuse compliance with
 10 electric facility clearances approved or required by the
 11 National Electrical Code, the ~~The~~ National Electrical
 12 Safety Code, the Illinois Commerce Commission, and the
 13 Federal Energy Regulatory Commission, and their designees
 14 or successors;;

15 (2) a wind tower of a commercial wind energy facility
 16 to be sited so that industry standard computer modeling
 17 indicates that any occupied community building or
 18 nonparticipating residence will not experience more than
 19 30 hours per year of shadow flicker under planned
 20 operating conditions;

21 (3) a commercial solar energy facility to be sited as
 22 follows, with setback distances measured from the nearest
 23 edge of any component of the facility:

24 Setback Description Setback Distance

1	Occupied Community	150 feet from the nearest
2	Buildings and Dwellings on	point on the outside wall
3	Nonparticipating Properties	of the structure
4	Boundary Lines of	None
5	Participating Property	
6	Public Road Rights-of-Way	50 feet from the nearest
7		edge
8	Boundary Lines of	50 feet to the nearest
9	Nonparticipating Property	point on the property
10		line of the nonparticipating
11		property

12 (4) a commercial solar energy facility to be sited so
13 that the facility's perimeter is enclosed by fencing
14 having a height of at least 6 feet and no more than 25
15 feet; and

16 (5) a commercial solar energy facility to be sited so
17 that no component of a solar panel has a height of more
18 than 20 feet above ground when the solar energy facility's
19 arrays are at full tilt.

20 The requirements set forth in this subsection (e) may be
21 waived subject to the written consent of the owner of each

1 affected nonparticipating property.

2 (e-5) A commercial solar energy facility may not be sited
3 on property where the property's soil's crop productivity
4 index is greater than 110, as "crop productivity index" is
5 used in the University of Illinois at Urbana-Champaign's
6 Optimum Crop Productivity Ratings for Illinois Soil or
7 subsequent publication.

8 (f) A county may not set a sound limitation for wind towers
9 in commercial wind energy facilities or any components in
10 commercial solar energy facilities that is more restrictive
11 than the sound limitations established by the Illinois
12 Pollution Control Board under 35 Ill. Adm. Code Parts 900,
13 901, and 910.

14 (g) A county may not place any restriction on the
15 installation or use of a commercial wind energy facility or a
16 commercial solar energy facility unless it adopts an ordinance
17 that complies with this Section. A county may not establish
18 siting standards for supporting facilities that preclude
19 development of commercial wind energy facilities or commercial
20 solar energy facilities.

21 A request for siting approval or a special use permit for a
22 commercial wind energy facility or a commercial solar energy
23 facility, or modification of an approved siting or special use
24 permit, shall be approved if the request is in compliance with
25 the standards and conditions imposed in this Act, the zoning
26 ordinance adopted consistent with this Code, and the

1 conditions imposed under State and federal statutes and
2 regulations.

3 (h) A county may not adopt zoning regulations that
4 disallow, permanently or temporarily, commercial wind energy
5 facilities or commercial solar energy facilities from being
6 developed or operated in any district zoned to allow
7 agricultural or industrial uses.

8 (i) A county may not require permit application fees for a
9 commercial wind energy facility or commercial solar energy
10 facility that are unreasonable. All application fees imposed
11 by the county shall be consistent with fees for projects in the
12 county with similar capital value and cost.

13 (j) Except as otherwise provided in this Section, a county
14 shall not require standards for construction, decommissioning,
15 or deconstruction of a commercial wind energy facility or
16 commercial solar energy facility or related financial
17 assurances that are more restrictive than those included in
18 the Department of Agriculture's standard wind farm
19 agricultural impact mitigation agreement, template 81818, or
20 standard solar agricultural impact mitigation agreement,
21 version 8.19.19, as applicable and in effect on December 31,
22 2022. The amount of any decommissioning payment shall be in
23 accordance with the financial assurance required by those
24 agricultural impact mitigation agreements.

25 (j-5) A commercial wind energy facility or a commercial
26 solar energy facility shall file a farmland drainage plan with

1 the county and impacted drainage districts outlining how
2 surface and subsurface drainage of farmland will be restored
3 during and following construction or deconstruction of the
4 facility. The plan is to be created independently by the
5 facility developer and shall include the location of any
6 potentially impacted drainage district facilities to the
7 extent this information is publicly available from the county
8 or the drainage district, plans to repair any subsurface
9 drainage affected during construction or deconstruction using
10 procedures outlined in the agricultural impact mitigation
11 agreement entered into by the commercial wind energy facility
12 owner or commercial solar energy facility owner, and
13 procedures for the repair and restoration of surface drainage
14 affected during construction or deconstruction. All surface
15 and subsurface damage shall be repaired as soon as reasonably
16 practicable.

17 (k) A county may not condition approval of a commercial
18 wind energy facility or commercial solar energy facility on a
19 property value guarantee and may not require a facility owner
20 to pay into a neighboring property devaluation escrow account.

21 (l) A county may require certain vegetative screening
22 surrounding a commercial wind energy facility or commercial
23 solar energy facility but may not require earthen berms or
24 similar structures.

25 (m) A county may set blade tip height limitations for wind
26 towers in commercial wind energy facilities but may not set a

1 blade tip height limitation that is more restrictive than the
2 height allowed under a Determination of No Hazard to Air
3 Navigation by the Federal Aviation Administration under 14 CFR
4 Part 77.

5 (n) A county may require that a commercial wind energy
6 facility owner or commercial solar energy facility owner
7 provide:

8 (1) the results and recommendations from consultation
9 with the Illinois Department of Natural Resources that are
10 obtained through the Ecological Compliance Assessment Tool
11 (EcoCAT) or a comparable successor tool; and

12 (2) the results of the United States Fish and Wildlife
13 Service's Information for Planning and Consulting
14 environmental review or a comparable successor tool that
15 is consistent with (i) the "U.S. Fish and Wildlife
16 Service's Land-Based Wind Energy Guidelines" and (ii) any
17 applicable United States Fish and Wildlife Service solar
18 wildlife guidelines that have been subject to public
19 review.

20 (o) A county may require a commercial wind energy facility
21 or commercial solar energy facility to adhere to the
22 recommendations provided by the Illinois Department of Natural
23 Resources in an EcoCAT natural resource review report under 17
24 Ill. Adm. Code Part 1075.

25 (p) A county may require a facility owner to:

26 (1) demonstrate avoidance of protected lands as

1 identified by the Illinois Department of Natural Resources
2 and the Illinois Nature Preserve Commission; or

3 (2) consider the recommendations of the Illinois
4 Department of Natural Resources for setbacks from
5 protected lands, including areas identified by the
6 Illinois Nature Preserve Commission.

7 (q) A county may require that a facility owner provide
8 evidence of consultation with the Illinois State Historic
9 Preservation Office to assess potential impacts on
10 State-registered historic sites under the Illinois State
11 Agency Historic Resources Preservation Act.

12 (r) To maximize community benefits, including, but not
13 limited to, reduced stormwater runoff, flooding, and erosion
14 at the ground mounted solar energy system, improved soil
15 health, and increased foraging habitat for game birds,
16 songbirds, and pollinators, a county may (1) require a
17 commercial solar energy facility owner to plant, establish,
18 and maintain for the life of the facility vegetative ground
19 cover, consistent with the goals of the Pollinator-Friendly
20 Solar Site Act and (2) require the submittal of a vegetation
21 management plan that is in compliance with the agricultural
22 impact mitigation agreement in the application to construct
23 and operate a commercial solar energy facility in the county
24 if the vegetative ground cover and vegetation management plan
25 comply with the requirements of the underlying agreement with
26 the landowner or landowners where the facility will be

1 constructed.

2 No later than 90 days after January 27, 2023 (the
3 effective date of Public Act 102-1123), the Illinois
4 Department of Natural Resources shall develop guidelines for
5 vegetation management plans that may be required under this
6 subsection for commercial solar energy facilities. The
7 guidelines must include guidance for short-term and long-term
8 property management practices that provide and maintain native
9 and non-invasive naturalized perennial vegetation to protect
10 the health and well-being of pollinators.

11 (s) If a facility owner enters into a road use agreement
12 with the Illinois Department of Transportation, a road
13 district, or other unit of local government relating to a
14 commercial wind energy facility or a commercial solar energy
15 facility, the road use agreement shall require the facility
16 owner to be responsible for (i) the reasonable cost of
17 improving roads used by the facility owner to construct the
18 commercial wind energy facility or the commercial solar energy
19 facility and (ii) the reasonable cost of repairing roads used
20 by the facility owner during construction of the commercial
21 wind energy facility or the commercial solar energy facility
22 so that those roads are in a condition that is safe for the
23 driving public after the completion of the facility's
24 construction. Roadways improved in preparation for and during
25 the construction of the commercial wind energy facility or
26 commercial solar energy facility shall be repaired and

1 restored to the improved condition at the reasonable cost of
2 the developer if the roadways have degraded or were damaged as
3 a result of construction-related activities.

4 The road use agreement shall not require the facility
5 owner to pay costs, fees, or charges for road work that is not
6 specifically and uniquely attributable to the construction of
7 the commercial wind energy facility or the commercial solar
8 energy facility. Road-related fees, permit fees, or other
9 charges imposed by the Illinois Department of Transportation,
10 a road district, or other unit of local government under a road
11 use agreement with the facility owner shall be reasonably
12 related to the cost of administration of the road use
13 agreement.

14 (s-5) The facility owner shall also compensate landowners
15 for crop losses or other agricultural damages resulting from
16 damage to the drainage system caused by the construction of
17 the commercial wind energy facility or the commercial solar
18 energy facility. The commercial wind energy facility owner or
19 commercial solar energy facility owner shall repair or pay for
20 the repair of all damage to the subsurface drainage system
21 caused by the construction of the commercial wind energy
22 facility or the commercial solar energy facility in accordance
23 with the agriculture impact mitigation agreement requirements
24 for repair of drainage. The commercial wind energy facility
25 owner or commercial solar energy facility owner shall repair
26 or pay for the repair and restoration of surface drainage

1 caused by the construction or deconstruction of the commercial
2 wind energy facility or the commercial solar energy facility
3 as soon as reasonably practicable.

4 (t) Notwithstanding any other provision of law, a facility
5 owner with siting approval from a county to construct a
6 commercial wind energy facility or a commercial solar energy
7 facility is authorized to cross or impact a drainage system,
8 including, but not limited to, drainage tiles, open drainage
9 ditches, culverts, and water gathering vaults, owned or under
10 the control of a drainage district under the Illinois Drainage
11 Code without obtaining prior agreement or approval from the
12 drainage district in accordance with the farmland drainage
13 plan required by subsection (j-5).

14 (u) The amendments to this Section adopted in Public Act
15 102-1123 do not apply to: (1) an application for siting
16 approval or for a special use permit for a commercial wind
17 energy facility or commercial solar energy facility if the
18 application was submitted to a unit of local government before
19 January 27, 2023 (the effective date of Public Act 102-1123);
20 (2) a commercial wind energy facility or a commercial solar
21 energy facility if the facility owner has submitted an
22 agricultural impact mitigation agreement to the Department of
23 Agriculture before January 27, 2023 (the effective date of
24 Public Act 102-1123); or (3) a commercial wind energy or
25 commercial solar energy development on property that is
26 located within an enterprise zone certified under the Illinois

1 Enterprise Zone Act, that was classified as industrial by the
2 appropriate zoning authority on or before January 27, 2023,
3 and that is located within 4 miles of the intersection of
4 Interstate 88 and Interstate 39.

5 (Source: P.A. 102-1123, eff. 1-27-23; 103-81, eff. 6-9-23;
6 103-580, eff. 12-8-23; revised 7-29-24.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.