

HB4078



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB4078

Introduced 10/15/2025, by Rep. Adam M. Niemerg

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-12020

Amends the Counties Code. In provisions regarding commercial wind energy facilities and commercial solar energy facilities, removes changes made by Public Act 102-1123. Provides that any provision of a county zoning ordinance pertaining to wind farms, commercial wind energy facilities, or commercial solar energy facilities that was in effect before January 27, 2023 may continue in effect notwithstanding any changes made in Public Act 102-1123 and, if applicable, any provision of a county zoning ordinance pertaining to wind farms that was in effect before August 16, 2007 may continue in effect notwithstanding the changes made in Public Act 95-203.

LRB104 14335 WRO 27468 b

A BILL FOR

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. Wind farms, electric-generating wind
8 devices, and commercial ~~Commercial~~ wind energy facilities and
9 commercial solar energy facilities.

10 (a) ~~As used in this Section:~~

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

19 ~~"Commercial wind energy facility" means a wind energy~~
20 ~~conversion facility of equal or greater than 500 kilowatts in~~
21 ~~total nameplate generating capacity. "Commercial wind energy~~
22 ~~facility" includes a wind energy conversion facility seeking~~
23 ~~an extension of a permit to construct granted by a county or~~

1 municipality before January 27, 2023 (the effective date of
2 Public Act 102-1123).

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

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

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

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

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

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

16 "Protected lands" means real property that is:

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

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

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

1 ~~or commercial solar energy facility.~~

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

4 (b) Notwithstanding any other provision of law or whether
5 the county has formed a zoning commission and adopted formal
6 zoning under Section 5-12007, a county may establish standards
7 for wind farms and electric-generating wind devices ~~commercial~~
8 ~~wind energy facilities, commercial solar energy facilities, or~~
9 ~~both.~~ The standards may include, without limitation, the
10 height of the devices and the number of devices that may be
11 located within a geographic area ~~all of the requirements~~
12 ~~specified in this Section but may not include requirements for~~
13 ~~commercial wind energy facilities or commercial solar energy~~
14 ~~facilities that are more restrictive than specified in this~~
15 ~~Section.~~ A county may also regulate the siting of wind farms
16 and electric-generating wind devices ~~commercial wind energy~~
17 ~~facilities with standards that are not more restrictive than~~
18 ~~the requirements specified in this Section~~ in unincorporated
19 areas of the county ~~that are~~ outside the zoning jurisdiction
20 of a municipality and ~~that are outside~~ the 1.5-mile radius
21 surrounding the zoning jurisdiction of a municipality.

22 (c) If a county has elected to establish standards under
23 subsection (b), before the county grants siting approval or a
24 special use permit for a commercial wind energy facility or a
25 commercial solar energy facility, or modification of an
26 approved siting or special use permit, the county board of the

1 ~~county in which the facility is to be sited or the zoning board~~
2 ~~of appeals for the county shall hold at least one public~~
3 ~~hearing. The public hearing shall be conducted in accordance~~
4 ~~with the Open Meetings Act and shall be held not more than 60~~
5 ~~days after the filing of the application for the facility. The~~
6 ~~county shall allow interested parties to a special use permit~~
7 ~~an opportunity to present evidence and to cross examine~~
8 ~~witnesses at the hearing, but the county may impose reasonable~~
9 ~~restrictions on the public hearing, including reasonable time~~
10 ~~limitations on the presentation of evidence and the~~
11 ~~cross examination of witnesses. The county shall also allow~~
12 ~~public comment at the public hearing in accordance with the~~
13 ~~Open Meetings Act. The county shall make its siting and~~
14 ~~permitting decisions. There shall be at least one public~~
15 ~~hearing not more than 30 days prior to a siting decision by the~~
16 ~~county board after the conclusion of the public hearing.~~
17 Notice of the hearing shall be published in a newspaper of
18 general circulation in the county. A commercial wind energy
19 facility owner, as defined in the Renewable Energy Facilities
20 Agricultural Impact Mitigation Act, must enter into an
21 agricultural impact mitigation agreement with the Department
22 of Agriculture prior to the date of the required public
23 hearing. A commercial wind energy facility owner seeking an
24 extension of a permit granted by a county prior to July 24,
25 2015 (the effective date of Public Act 99-132) must enter into
26 an agricultural impact mitigation agreement with the

1 Department of Agriculture prior to a decision by the county to
2 grant the permit extension. Counties may allow test wind
3 towers ~~or test solar energy systems~~ to be sited without formal
4 approval by the county board. Any provision of a county zoning
5 ordinance pertaining to wind farms, commercial wind energy
6 facilities, or commercial solar energy facilities that was in
7 effect before January 27, 2023 may continue in effect
8 notwithstanding any changes made in Public Act 102-1123 and,
9 if applicable, any provision of a county zoning ordinance
10 pertaining to wind farms that was in effect before August 16,
11 2007 may continue in effect notwithstanding the changes made
12 in Public Act 95-203.

13 ~~(d) A county with an existing zoning ordinance in conflict~~
14 ~~with this Section shall amend that zoning ordinance to be in~~
15 ~~compliance with this Section within 120 days after January 27,~~
16 ~~2023 (the effective date of Public Act 102-1123).~~

17 ~~(e) A county may not require a wind tower or other~~
18 ~~renewable energy system that is used exclusively by an end~~
19 ~~user to be setback more than 1.1 times the height of the~~
20 ~~renewable energy system from the end user's property line. -~~

21 ~~(1) a wind tower of a commercial wind energy facility~~
22 ~~to be sited as follows, with setback distances measured~~
23 ~~from the center of the base of the wind tower:~~

24 ~~Setback Description~~

~~Setback Distance~~

1	Occupied Community	2.1 times the maximum blade tip
2	Buildings	height of the wind tower to the nearest point on the outside wall of the structure
3		
4		
5	Participating Residences	1.1 times the maximum blade tip
6		height of the wind tower to the nearest point on the outside
7		wall of the structure
8		
9	Nonparticipating Residences	2.1 times the maximum blade tip
10		height of the wind tower to the nearest point on the outside
11		wall of the structure
12		
13	Boundary Lines of	None
14	Participating Property	
15	Boundary Lines of	1.1 times the maximum blade tip
16	Nonparticipating Property	height of the wind tower to the nearest point on the property line of the nonparticipating property
17		
18		
19		
20	Public Road Rights of Way	1.1 times the maximum blade tip
21		height of the wind tower

~~to the center point of the
public road right of way~~

3 Overhead Communication and 1.1 times the maximum blade tip
4 Electric Transmission height of the wind tower to the
5 and Distribution Facilities nearest edge of the property
6 (Not Including Overhead line, easement, or
7 Utility Service Lines to right of way
8 Individual Houses or containing the overhead line
9 Outbuildings)

10	<u>Overhead Utility Service</u>	None
11	<u>Lines to Individual</u>	
12	<u>Houses or Outbuildings</u>	

13 ~~Fish and Wildlife Areas~~ 2.1 times the maximum blade
14 ~~and Illinois Nature~~ tip height of the wind tower
15 ~~Preserve Commission~~ to the nearest point on the
16 ~~Protected Lands~~ property line of the fish and
17 ~~wildlife area or protected~~
18 ~~land~~

19 This Section does not exempt or excuse compliance with
20 electric facility clearances approved or required by the
21 National Electrical Code, The National Electrical Safety
22 Code, Illinois Commerce Commission, Federal Energy
23 Regulatory Commission, and their designees or successors.

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

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

10 ~~Setback Description~~ ~~Setback Distance~~

11 Occupied Community 150 feet from the nearest
12 Buildings and Dwellings on point on the outside wall
13 Nonparticipating Properties of the structure

14 ~~Boundary Lines of~~ None
15 ~~Participating Property~~

16 Public Road Rights of Way 50 feet from the nearest
17 edge

18 Boundary Lines of 50 feet to the nearest
19 Nonparticipating Property point on the property
20 line of the nonparticipating
21 property

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

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

~~The requirements set forth in this subsection (e) may be waived subject to the written consent of the owner of each affected nonparticipating property.~~

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

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

A request for siting approval or a special use permit for a

1 ~~commercial wind energy facility or a commercial solar energy~~
2 ~~facility, or modification of an approved siting or special use~~
3 ~~permit, shall be approved if the request is in compliance with~~
4 ~~the standards and conditions imposed in this Act, the zoning~~
5 ~~ordinance adopted consistent with this Code, and the~~
6 ~~conditions imposed under State and federal statutes and~~
7 ~~regulations.~~

8 ~~(h) A county may not adopt zoning regulations that~~
9 ~~disallow, permanently or temporarily, commercial wind energy~~
10 ~~facilities or commercial solar energy facilities from being~~
11 ~~developed or operated in any district zoned to allow~~
12 ~~agricultural or industrial uses.~~

13 ~~(i) A county may not require permit application fees for a~~
14 ~~commercial wind energy facility or commercial solar energy~~
15 ~~facility that are unreasonable. All application fees imposed~~
16 ~~by the county shall be consistent with fees for projects in the~~
17 ~~county with similar capital value and cost.~~

18 ~~(j) Except as otherwise provided in this Section, a county~~
19 ~~shall not require standards for construction, decommissioning,~~
20 ~~or deconstruction of a commercial wind energy facility or~~
21 ~~commercial solar energy facility or related financial~~
22 ~~assurances that are more restrictive than those included in~~
23 ~~the Department of Agriculture's standard wind farm~~
24 ~~agricultural impact mitigation agreement, template 81818, or~~
25 ~~standard solar agricultural impact mitigation agreement,~~
26 ~~version 8.19.19, as applicable and in effect on December 31,~~

1 ~~2022. The amount of any decommissioning payment shall be in~~
2 ~~accordance with the financial assurance required by those~~
3 ~~agricultural impact mitigation agreements.~~

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

22 ~~(k) A county may not condition approval of a commercial~~
23 ~~wind energy facility or commercial solar energy facility on a~~
24 ~~property value guarantee and may not require a facility owner~~
25 ~~to pay into a neighboring property devaluation escrow account.~~

26 ~~(l) A county may require certain vegetative screening~~

1 ~~surrounding a commercial wind energy facility or commercial~~
2 ~~solar energy facility but may not require earthen berms or~~
3 ~~similar structures.~~

4 ~~(m) A county may set blade tip height limitations for wind~~
5 ~~towers in commercial wind energy facilities but may not set a~~
6 ~~blade tip height limitation that is more restrictive than the~~
7 ~~height allowed under a Determination of No Hazard to Air~~
8 ~~Navigation by the Federal Aviation Administration under 14 CFR~~
9 ~~Part 77.~~

10 ~~(n) A county may require that a commercial wind energy~~
11 ~~facility owner or commercial solar energy facility owner~~
12 ~~provide:~~

13 ~~(1) the results and recommendations from consultation~~
14 ~~with the Illinois Department of Natural Resources that are~~
15 ~~obtained through the Ecological Compliance Assessment Tool~~
16 ~~(EcoCAT) or a comparable successor tool; and~~

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

25 Only a county may establish standards for wind farms,
26 electric-generating wind devices, and commercial wind energy

1 facilities, as that term is defined in Section 10 of the
2 Renewable Energy Facilities Agricultural Impact Mitigation
3 Act, in unincorporated areas of the county outside of the
4 zoning jurisdiction of a municipality and outside the 1.5-mile
5 radius surrounding the zoning jurisdiction of a municipality.

6 ~~(o) A county may require a commercial wind energy facility~~
7 ~~or commercial solar energy facility to adhere to the~~
8 ~~recommendations provided by the Illinois Department of Natural~~
9 ~~Resources in an EcoCAT natural resource review report under 17~~
10 ~~Ill. Adm. Code Part 1075.~~

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

12 ~~(1) demonstrate avoidance of protected lands as~~
13 ~~identified by the Illinois Department of Natural Resources~~
14 ~~and the Illinois Nature Preserve Commission; or~~

15 ~~(2) consider the recommendations of the Illinois~~
16 ~~Department of Natural Resources for setbacks from~~
17 ~~protected lands, including areas identified by the~~
18 ~~Illinois Nature Preserve Commission.~~

19 ~~(q) A county may require that a facility owner provide~~
20 ~~evidence of consultation with the Illinois State Historic~~
21 ~~Preservation Office to assess potential impacts on~~
22 ~~State registered historic sites under the Illinois State~~
23 ~~Agency Historic Resources Preservation Act.~~

24 ~~(r) To maximize community benefits, including, but not~~
25 ~~limited to, reduced stormwater runoff, flooding, and erosion~~
26 ~~at the ground mounted solar energy system, improved soil~~

1 ~~health, and increased foraging habitat for game birds,~~
2 ~~songbirds, and pollinators, a county may (1) require a~~
3 ~~commercial solar energy facility owner to plant, establish,~~
4 ~~and maintain for the life of the facility vegetative ground~~
5 ~~cover, consistent with the goals of the Pollinator Friendly~~
6 ~~Solar Site Act and (2) require the submittal of a vegetation~~
7 ~~management plan that is in compliance with the agricultural~~
8 ~~impact mitigation agreement in the application to construct~~
9 ~~and operate a commercial solar energy facility in the county~~
10 ~~if the vegetative ground cover and vegetation management plan~~
11 ~~comply with the requirements of the underlying agreement with~~
12 ~~the landowner or landowners where the facility will be~~
13 ~~constructed.~~

14 ~~No later than 90 days after January 27, 2023 (the~~
15 ~~effective date of Public Act 102-1123), the Illinois~~
16 ~~Department of Natural Resources shall develop guidelines for~~
17 ~~vegetation management plans that may be required under this~~
18 ~~subsection for commercial solar energy facilities. The~~
19 ~~guidelines must include guidance for short term and long term~~
20 ~~property management practices that provide and maintain native~~
21 ~~and non invasive naturalized perennial vegetation to protect~~
22 ~~the health and well-being of pollinators.~~

23 ~~(s) If a facility owner enters into a road use agreement~~
24 ~~with the Illinois Department of Transportation, a road~~
25 ~~district, or other unit of local government relating to a~~
26 ~~commercial wind energy facility or a commercial solar energy~~

1 ~~facility, the road use agreement shall require the facility~~
2 ~~owner to be responsible for (i) the reasonable cost of~~
3 ~~improving roads used by the facility owner to construct the~~
4 ~~commercial wind energy facility or the commercial solar energy~~
5 ~~facility and (ii) the reasonable cost of repairing roads used~~
6 ~~by the facility owner during construction of the commercial~~
7 ~~wind energy facility or the commercial solar energy facility~~
8 ~~so that those roads are in a condition that is safe for the~~
9 ~~driving public after the completion of the facility's~~
10 ~~construction. Roadways improved in preparation for and during~~
11 ~~the construction of the commercial wind energy facility or~~
12 ~~commercial solar energy facility shall be repaired and~~
13 ~~restored to the improved condition at the reasonable cost of~~
14 ~~the developer if the roadways have degraded or were damaged as~~
15 ~~a result of construction related activities.~~

16 ~~The road use agreement shall not require the facility~~
17 ~~owner to pay costs, fees, or charges for road work that is not~~
18 ~~specifically and uniquely attributable to the construction of~~
19 ~~the commercial wind energy facility or the commercial solar~~
20 ~~energy facility. Road related fees, permit fees, or other~~
21 ~~charges imposed by the Illinois Department of Transportation,~~
22 ~~a road district, or other unit of local government under a road~~
23 ~~use agreement with the facility owner shall be reasonably~~
24 ~~related to the cost of administration of the road use~~
25 ~~agreement.~~

26 ~~(s 5) The facility owner shall also compensate landowners~~

1 for crop losses or other agricultural damages resulting from
2 damage to the drainage system caused by the construction of
3 the commercial wind energy facility or the commercial solar
4 energy facility. The commercial wind energy facility owner or
5 commercial solar energy facility owner shall repair or pay for
6 the repair of all damage to the subsurface drainage system
7 caused by the construction of the commercial wind energy
8 facility or the commercial solar energy facility in accordance
9 with the agriculture impact mitigation agreement requirements
10 for repair of drainage. The commercial wind energy facility
11 owner or commercial solar energy facility owner shall repair
12 or pay for the repair and restoration of surface drainage
13 caused by the construction or deconstruction of the commercial
14 wind energy facility or the commercial solar energy facility
15 as soon as reasonably practicable.

16 (t) Notwithstanding any other provision of law, a facility
17 owner with siting approval from a county to construct a
18 commercial wind energy facility or a commercial solar energy
19 facility is authorized to cross or impact a drainage system,
20 including, but not limited to, drainage tiles, open drainage
21 ditches, culverts, and water gathering vaults, owned or under
22 the control of a drainage district under the Illinois Drainage
23 Code without obtaining prior agreement or approval from the
24 drainage district in accordance with the farmland drainage
25 plan required by subsection (j-5).

26 (u) The amendments to this Section adopted in Public Act

~~102-1123 do not apply to: (1) an application for siting approval or for a special use permit for a commercial wind energy facility or commercial solar energy facility if the application was submitted to a unit of local government before January 27, 2023 (the effective date of Public Act 102-1123); (2) a commercial wind energy facility or a commercial solar energy facility if the facility owner has submitted an agricultural impact mitigation agreement to the Department of Agriculture before January 27, 2023 (the effective date of Public Act 102-1123); or (3) a commercial wind energy or commercial solar energy development on property that is located within an enterprise zone certified under the Illinois Enterprise Zone Act, that was classified as industrial by the appropriate zoning authority on or before January 27, 2023, and that is located within 4 miles of the intersection of Interstate 88 and Interstate 39.~~

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