



## 104TH GENERAL ASSEMBLY

### State of Illinois

2025 and 2026

HB5477

Introduced 2/13/2026, by Rep. Suzanne M. Ness

#### SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-12020  
505 ILCS 147/10  
505 ILCS 147/15

Amends the Counties Code. Provides that a commercial wind energy facility or commercial solar energy facility proposed to be located on property in an unincorporated area of the county within the zoning jurisdiction of a municipality and located adjacent to the corporate boundary of a municipality shall either be annexed to the municipality or be subject to the municipality's zoning regulations. Provides factors for determining if a request for siting approval or a special use permit for a commercial wind energy facility or a commercial solar energy facility or a request for modification of an approved siting or special use permit complies with the standards and conditions imposed in the Code, the zoning ordinance adopted consistent with the Code, and the conditions imposed under State and federal statutes and regulations. Provides that a county may not approve a request for siting approval or a special use permit for a commercial wind energy facility or a commercial solar energy facility or modification of an approved siting or special use permit, if the proposal shall disturb more than one acre of land, unless the facility owner has obtained a National Pollution Discharge Elimination System ("NPDES") permit from the Illinois Environmental Protection Agency. Requires a facility owner to provide the county where a commercial solar energy facility or commercial wind energy facility is to be located with a deconstruction plan that has been prepared by a professional engineer who has been selected by the facility owner. Provides that, based on an initial evaluation or reevaluation during the county approval process, the county may require changes in the level of financial assurance from the facility owner. Amends the Renewable Energy Facilities Agricultural Impact Mitigation Act. Provides that the standard agricultural impact mitigation agreements shall be amended as needed to conform with the financial assurance procedures and requirements of specified provisions of the Code. Makes other changes.

LRB104 20584 TRT 34074 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 (Text of Section before amendment by P.A. 104-458)

8 Sec. 5-12020. 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 commercial wind energy facilities, commercial solar energy  
8 facilities, or both. The standards may include all of the  
9 requirements specified in this Section but may not include  
10 requirements for commercial wind energy facilities or  
11 commercial solar energy facilities that are more restrictive  
12 than specified in this Section. A county may also regulate the  
13 siting of commercial wind energy facilities with standards  
14 that are not more restrictive than the requirements specified  
15 in this Section in unincorporated areas of the county that are  
16 outside the zoning jurisdiction of a municipality and that are  
17 outside the 1.5-mile radius surrounding the zoning  
18 jurisdiction of a municipality.

19 (c) If a county has elected to establish standards under  
20 subsection (b), before the county grants siting approval or a  
21 special use permit for a commercial wind energy facility or a  
22 commercial solar energy facility, or modification of an  
23 approved siting or special use permit, the county board of the  
24 county in which the facility is to be sited or the zoning board  
25 of appeals for the county shall hold at least one public  
26 hearing. The public hearing shall be conducted in accordance

1 with the Open Meetings Act and shall be held not more than 60  
2 days after the filing of the application for the facility. The  
3 county shall allow interested parties to a special use permit  
4 an opportunity to present evidence and to cross-examine  
5 witnesses at the hearing, but the county may impose reasonable  
6 restrictions on the public hearing, including reasonable time  
7 limitations on the presentation of evidence and the  
8 cross-examination of witnesses. The county shall also allow  
9 public comment at the public hearing in accordance with the  
10 Open Meetings Act. The county shall make its siting and  
11 permitting decisions not more than 30 days after the  
12 conclusion of the public hearing. Notice of the hearing shall  
13 be published in a newspaper of general circulation in the  
14 county. A facility owner must enter into an agricultural  
15 impact mitigation agreement with the Department of Agriculture  
16 prior to the date of the required public hearing. A commercial  
17 wind energy facility owner seeking an extension of a permit  
18 granted by a county prior to July 24, 2015 (the effective date  
19 of Public Act 99-132) must enter into an agricultural impact  
20 mitigation agreement with the Department of Agriculture prior  
21 to a decision by the county to grant the permit extension.  
22 Counties may allow test wind towers or test solar energy  
23 systems to be sited without formal approval by the county  
24 board.

25 (d) A county with an existing zoning ordinance in conflict  
26 with this Section shall amend that zoning ordinance to be in

1 compliance with this Section within 120 days after January 27,  
 2 2023 (the effective date of Public Act 102-1123).

3 (e) A county may require:

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

| 7 Setback Description                             | Setback Distance  |
|---|---|
| 8 Occupied Community<br>9 Buildings<br>10<br>11   | 2.1 times the maximum blade tip<br>height of the wind tower to the<br>nearest point on the outside<br>wall of the structure |
| 12 Participating Residences<br>13<br>14<br>15     | 1.1 times the maximum blade tip<br>height of the wind tower to the<br>nearest point on the outside<br>wall of the structure |
| 16 Nonparticipating Residences<br>17<br>18<br>19  | 2.1 times the maximum blade tip<br>height of the wind tower to the<br>nearest point on the outside<br>wall of the structure |
| 20 Boundary Lines of<br>21 Participating Property | None  |

|    |                             |                                 |
|----|-----------------------------|---------------------------------|
| 1  | Boundary Lines of           | 1.1 times the maximum blade tip |
| 2  | Nonparticipating Property   | height of the wind tower to the |
| 3  |                             | nearest point on the property   |
| 4  |                             | line of the nonparticipating    |
| 5  |                             | property                        |
| 6  | Public Road Rights-of-Way   | 1.1 times the maximum blade tip |
| 7  |                             | height of the wind tower        |
| 8  |                             | to the center point of the      |
| 9  |                             | public road right-of-way        |
| 10 | Overhead Communication and  | 1.1 times the maximum blade tip |
| 11 | Electric Transmission       | height of the wind tower to the |
| 12 | and Distribution Facilities | nearest edge of the property    |
| 13 | (Not Including Overhead     | line, easement, or              |
| 14 | Utility Service Lines to    | right-of-way                    |
| 15 | Individual Houses or        | containing the overhead line    |
| 16 | Outbuildings)               |                                 |
| 17 | Overhead Utility Service    | None                            |
| 18 | Lines to Individual         |                                 |
| 19 | Houses or Outbuildings      |                                 |
| 20 | Fish and Wildlife Areas     | 2.1 times the maximum blade     |
| 21 | and Illinois Nature         | tip height of the wind tower    |

1 Preserve Commission to the nearest point on the  
 2 Protected Lands property line of the fish and  
 3 wildlife area or protected  
 4 land

5 This Section does not exempt or excuse compliance with  
 6 electric facility clearances approved or required by the  
 7 National Electrical Code, the National Electrical Safety  
 8 Code, the Illinois Commerce Commission, and the Federal  
 9 Energy Regulatory Commission and their designees or  
 10 successors;

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

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

| 20 Setback Description   | Setback Distance   |
|--|--|
| 21 Occupied Community<br>22 Buildings and Dwellings on<br>23 Nonparticipating Properties | 150 feet from the nearest<br>point on the outside wall<br>of the structure |

|   |                           |                              |
|---|---------------------------|------------------------------|
| 1 | Boundary Lines of         | None                         |
| 2 | Participating Property    |                              |
| 3 | Public Road Rights-of-Way | 50 feet from the nearest     |
| 4 |                           | edge                         |
| 5 | Boundary Lines of         | 50 feet to the nearest       |
| 6 | Nonparticipating Property | point on the property        |
| 7 |                           | line of the nonparticipating |
| 8 |                           | property                     |

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

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

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

20           (f) A county may not set a sound limitation for wind towers  
21       in commercial wind energy facilities or any components in  
22       commercial solar energy facilities that is more restrictive  
23       than the sound limitations established by the Illinois

1 Pollution Control Board under 35 Ill. Adm. Code Parts 900,  
2 901, and 910.

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

10 A request for siting approval or a special use permit for a  
11 commercial wind energy facility or a commercial solar energy  
12 facility, or modification of an approved siting or special use  
13 permit, shall be approved if the request is in compliance with  
14 the standards and conditions imposed in this Act, the zoning  
15 ordinance adopted consistent with this Code, and the  
16 conditions imposed under State and federal statutes and  
17 regulations -

18 (h) A county may not adopt zoning regulations that  
19 disallow, permanently or temporarily, commercial wind energy  
20 facilities or commercial solar energy facilities from being  
21 developed or operated in any district zoned to allow  
22 agricultural or industrial uses.

23 (i) A county may not require permit application fees for a  
24 commercial wind energy facility or commercial solar energy  
25 facility that are unreasonable. All application fees imposed  
26 by the county shall be consistent with fees for projects in the

1 county with similar capital value and cost.

2 (j) Except as otherwise provided in this Section, a county  
3 shall not require standards for construction, decommissioning,  
4 or deconstruction of a commercial wind energy facility or  
5 commercial solar energy facility or related financial  
6 assurances that are more restrictive than those included in  
7 the Department of Agriculture's standard wind farm  
8 agricultural impact mitigation agreement, template 81818, or  
9 standard solar agricultural impact mitigation agreement,  
10 version 8.19.19, as applicable and in effect on December 31,  
11 2022. The amount of any decommissioning payment shall be in  
12 accordance with the financial assurance required by those  
13 agricultural impact mitigation agreements.

14 (j-5) A commercial wind energy facility or a commercial  
15 solar energy facility shall file a farmland drainage plan with  
16 the county and impacted drainage districts outlining how  
17 surface and subsurface drainage of farmland will be restored  
18 during and following construction or deconstruction of the  
19 facility. The plan is to be created independently by the  
20 facility developer and shall include the location of any  
21 potentially impacted drainage district facilities to the  
22 extent this information is publicly available from the county  
23 or the drainage district, plans to repair any subsurface  
24 drainage affected during construction or deconstruction using  
25 procedures outlined in the agricultural impact mitigation  
26 agreement entered into by the commercial wind energy facility

1 owner or commercial solar energy facility owner, and  
2 procedures for the repair and restoration of surface drainage  
3 affected during construction or deconstruction. All surface  
4 and subsurface damage shall be repaired as soon as reasonably  
5 practicable.

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

10 (l) A county may require certain vegetative screening  
11 surrounding a commercial wind energy facility or commercial  
12 solar energy facility but may not require earthen berms or  
13 similar structures.

14 (m) A county may set blade tip height limitations for wind  
15 towers in commercial wind energy facilities but may not set a  
16 blade tip height limitation that is more restrictive than the  
17 height allowed under a Determination of No Hazard to Air  
18 Navigation by the Federal Aviation Administration under 14 CFR  
19 Part 77.

20 (n) A county may require that a commercial wind energy  
21 facility owner or commercial solar energy facility owner  
22 provide:

23 (1) the results and recommendations from consultation  
24 with the Illinois Department of Natural Resources that are  
25 obtained through the Ecological Compliance Assessment Tool  
26 (EcoCAT) or a comparable successor tool; and

1           (2) the results of the United States Fish and Wildlife  
2           Service's Information for Planning and Consulting  
3           environmental review or a comparable successor tool that  
4           is consistent with (i) the "U.S. Fish and Wildlife  
5           Service's Land-Based Wind Energy Guidelines" and (ii) any  
6           applicable United States Fish and Wildlife Service solar  
7           wildlife guidelines that have been subject to public  
8           review.

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

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

15                 (1) demonstrate avoidance of protected lands as  
16                 identified by the Illinois Department of Natural Resources  
17                 and the Illinois Nature Preserve Commission; or

18                 (2) consider the recommendations of the Illinois  
19                 Department of Natural Resources for setbacks from  
20                 protected lands, including areas identified by the  
21                 Illinois Nature Preserve Commission.

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

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

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

26 (s) If a facility owner enters into a road use agreement

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

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

1 related to the cost of administration of the road use  
2 agreement.

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

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

1 drainage district in accordance with the farmland drainage  
2 plan required by subsection (j-5).

3 (u) The amendments to this Section adopted in Public Act  
4 102-1123 do not apply to: (1) an application for siting  
5 approval or for a special use permit for a commercial wind  
6 energy facility or commercial solar energy facility if the  
7 application was submitted to a unit of local government before  
8 January 27, 2023 (the effective date of Public Act 102-1123);  
9 (2) a commercial wind energy facility or a commercial solar  
10 energy facility if the facility owner has submitted an  
11 agricultural impact mitigation agreement to the Department of  
12 Agriculture before January 27, 2023 (the effective date of  
13 Public Act 102-1123); or (3) a commercial wind energy or  
14 commercial solar energy development on property that is  
15 located within an enterprise zone certified under the Illinois  
16 Enterprise Zone Act, that was classified as industrial by the  
17 appropriate zoning authority on or before January 27, 2023,  
18 and that is located within 4 miles of the intersection of  
19 Interstate 88 and Interstate 39.

20 (Source: P.A. 103-81, eff. 6-9-23; 103-580, eff. 12-8-23;  
21 104-417, eff. 8-15-25.)

22 (Text of Section after amendment by P.A. 104-458)

23 Sec. 5-12020. Commercial wind energy facilities and  
24 commercial solar energy facilities.

25 (a) As used in this Section:

1       "Commercial operation date" means the calendar date the  
2 facility owner notifies the landowner, county, and Department  
3 of Agriculture, in writing, that commercial operation of a  
4 commercial solar energy facility or commercial wind energy  
5 facility has commenced.

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

14       "Commercial wind energy facility" means a wind energy  
15 conversion facility of equal or greater than 500 kilowatts in  
16 total nameplate generating capacity. "Commercial wind energy  
17 facility" includes a wind energy conversion facility seeking  
18 an extension of a permit to construct granted by a county or  
19 municipality before January 27, 2023 (the effective date of  
20 Public Act 102-1123).

21       "Facility owner" means (i) a person with a direct  
22 ownership interest in a commercial wind energy facility or a  
23 commercial solar energy facility, or both, regardless of  
24 whether the person is involved in acquiring the necessary  
25 rights, permits, and approvals or otherwise planning for the  
26 construction and operation of the facility, and (ii) at the

1 time the facility is being developed, a person who is acting as  
2 a developer of the facility by acquiring the necessary rights,  
3 permits, and approvals or by planning for the construction and  
4 operation of the facility, regardless of whether the person  
5 will own or operate the facility.

6 "Nonparticipating property" means real property that is  
7 not a participating property.

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

13 "Occupied community building" means any one or more of the  
14 following buildings that is existing and occupied on the date  
15 that the application for a permit to develop the commercial  
16 wind energy facility or the commercial solar energy facility  
17 is filed with the county: a school, place of worship, day care  
18 facility, public library, or community center.

19 "Participating property" means real property that is the  
20 subject of a written agreement between a facility owner and  
21 the owner of the real property that provides the facility  
22 owner an easement, option, lease, or license to use the real  
23 property for the purpose of constructing a commercial wind  
24 energy facility, a commercial solar energy facility, or  
25 supporting facilities. "Participating property" also includes  
26 real property that is owned by a facility owner for the purpose

1 of constructing a commercial wind energy facility, a  
2 commercial solar energy facility, or supporting facilities.

3 "Participating residence" means a residence that is  
4 located on participating property and that is existing and  
5 occupied on the date that an application for a permit to  
6 develop the commercial wind energy facility or the commercial  
7 solar energy facility is filed with the county.

8 "Protected lands" means real property that is:

9 (1) subject to a permanent conservation right  
10 consistent with the Real Property Conservation Rights Act;  
11 or

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

15 "Supporting facilities" means the transmission lines,  
16 substations, access roads, meteorological towers, storage  
17 containers, and equipment associated with the generation and  
18 storage of electricity by the commercial wind energy facility  
19 or commercial solar energy facility. "Supporting facilities"  
20 includes energy storage systems capable of absorbing energy  
21 and storing it for use at a later time, including, but not  
22 limited to, batteries and other electrochemical and  
23 electromechanical technologies or systems.

24 "Wind tower" includes the wind turbine tower, nacelle, and  
25 blades.

26 (b) Notwithstanding any other provision of law or whether

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

19 (c) If a county has elected to establish standards under  
20 subsection (b), before the county grants siting approval or a  
21 special use permit for a commercial wind energy facility or a  
22 commercial solar energy facility, or modification of an  
23 approved siting or special use permit, the county board of the  
24 county in which the facility is to be sited or the zoning board  
25 of appeals for the county shall hold at least one public  
26 hearing. The public hearing shall be conducted in accordance

1 with the Open Meetings Act and shall conclude not more than 60  
2 days after the filing of the application for the facility. The  
3 county shall allow interested parties to a special use permit  
4 an opportunity to present evidence and to cross-examine  
5 witnesses at the hearing, but the county may impose reasonable  
6 restrictions on the public hearing, including reasonable time  
7 limitations on the presentation of evidence and the  
8 cross-examination of witnesses. The county shall also allow  
9 public comment at the public hearing in accordance with the  
10 Open Meetings Act. The county shall make its siting and  
11 permitting decisions not more than 30 days after the  
12 conclusion of the public hearing. Notice of the hearing shall  
13 be published in a newspaper of general circulation in the  
14 county. A facility owner must enter into an agricultural  
15 impact mitigation agreement with the Department of Agriculture  
16 prior to the date of the required public hearing. A commercial  
17 wind energy facility owner seeking an extension of a permit  
18 granted by a county prior to July 24, 2015 (the effective date  
19 of Public Act 99-132) must enter into an agricultural impact  
20 mitigation agreement with the Department of Agriculture prior  
21 to a decision by the county to grant the permit extension.  
22 Counties may allow test wind towers or test solar energy  
23 systems to be sited without formal approval by the county  
24 board.

25 (c-5) A commercial wind energy facility or commercial  
26 solar energy facility proposed to be located on property in an

1 unincorporated area of the county within the zoning  
 2 jurisdiction of a municipality, and located adjacent to the  
 3 corporate boundary of a municipality shall either be annexed  
 4 to the municipality subject to the requirements under Section  
 5 7-1-1 of the Illinois Municipal Code or be subject to the  
 6 municipality's zoning regulations.

7 (d) A county with an existing zoning ordinance in conflict  
 8 with this Section shall amend that zoning ordinance to be in  
 9 compliance with this Section within 120 days after January 27,  
 10 2023 (the effective date of Public Act 102-1123).

11 (e) A county may require:

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

| 15 | Setback Description             | Setback Distance  |
|----|---------------------------------|---|
| 16 | Occupied Community<br>Buildings | 2.1 times the maximum blade tip<br>height of the wind tower to the<br>nearest point on the outside<br>wall of the structure |
| 20 | Participating Residences        | 1.1 times the maximum blade tip<br>height of the wind tower to the<br>nearest point on the outside<br>wall of the structure |
| 21 |                                 |   |
| 22 |                                 |   |
| 23 |                                 |   |

|    |                             |                                 |
|----|-----------------------------|---------------------------------|
| 1  | Nonparticipating Residences | 2.1 times the maximum blade tip |
| 2  |                             | height of the wind tower to the |
| 3  |                             | nearest point on the outside    |
| 4  |                             | wall of the structure           |
| 5  | Boundary Lines of           | None                            |
| 6  | Participating Property      |                                 |
| 7  | Boundary Lines of           | 1.1 times the maximum blade tip |
| 8  | Nonparticipating Property   | height of the wind tower to the |
| 9  |                             | nearest point on the property   |
| 10 |                             | line of the nonparticipating    |
| 11 |                             | property                        |
| 12 | Public Road Rights-of-Way   | 1.1 times the maximum blade tip |
| 13 |                             | height of the wind tower        |
| 14 |                             | to the center point of the      |
| 15 |                             | public road right-of-way        |
| 16 | Overhead Communication and  | 1.1 times the maximum blade tip |
| 17 | Electric Transmission       | height of the wind tower to the |
| 18 | and Distribution Facilities | nearest edge of the property    |
| 19 | (Not Including Overhead     | line, easement, or              |
| 20 | Utility Service Lines to    | right-of-way                    |
| 21 | Individual Houses or        | containing the overhead line    |

1 Outbuildings)

2 Overhead Utility Service            None  
3 Lines to Individual  
4 Houses or Outbuildings

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

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

17            (2) a wind tower of a commercial wind energy facility  
18            to be sited so that industry standard computer modeling  
19            indicates that any occupied community building or  
20            nonparticipating residence will not experience more than  
21            30 hours per year of shadow flicker under planned  
22            operating conditions;

23            (3) a commercial solar energy facility to be sited as  
24            follows, with setback distances measured from the nearest

1 edge of any above-ground component of the facility,  
 2 excluding fencing:

| 3 Setback Description   | Setback Distance  |
|---|---|
| 4 Occupied Community<br>5 Buildings and Dwellings on<br>6 Nonparticipating Properties | 150 feet from the nearest<br>point on the outside wall<br>of the structure                  |
| 7 Boundary Lines of<br>8 Participating Property                                       | None  |
| 9 Public Road Rights-of-Way<br>10<br>11   | 50 feet from the nearest<br>edge of the public<br>right-of-way                              |
| 12 Boundary Lines of<br>13 Nonparticipating Property<br>14<br>15                      | 50 feet to the nearest<br>point on the property<br>line of the nonparticipating<br>property |

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

20 (5) a commercial solar energy facility to be sited so

1           that no component of a solar panel has a height of more  
2           than 20 feet above ground when the solar energy facility's  
3           arrays are at full tilt.

4           This subsection (e) shall not preclude the ability of a  
5           county to require a reasonable setback distance between  
6           fencing and public rights-of-way if the requirement is not  
7           specific to commercial wind energy facilities or commercial  
8           solar energy facilities and does not preclude the development  
9           of commercial wind energy facilities or commercial solar  
10          energy facilities or the ability of commercial wind energy  
11          facilities or commercial solar energy facilities to comply  
12          with the requirements set forth in this subsection (e).

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

16          (e-5) Commercial solar energy facilities or commercial  
17          wind energy facilities shall be placed in zoning districts  
18          primarily intended for agricultural or manufacturing uses.

19          (f) A county may not set a sound limitation for wind towers  
20          in commercial wind energy facilities or any components in  
21          commercial solar energy facilities that is more restrictive  
22          than the sound limitations established by the Illinois  
23          Pollution Control Board under 35 Ill. Adm. Code Parts 900,  
24          901, and 910. Additionally, in accordance with Section 25 of  
25          the Environmental Protection Act, a participating property,  
26          participating        residence,        nonparticipating        property,

1 nonparticipating residence, or any combination of those  
2 properties or residences may waive enforcement of the rules  
3 adopted by the Illinois Pollution Control Board under 35 Ill.  
4 Adm. Code Parts 900, 901, and 910 by written waiver that  
5 complies with the applicable directive established in Section  
6 25 of the Environmental Protection Act and is recorded in the  
7 Office of the Recorder of the county in which the  
8 participating property, participating residence,  
9 nonparticipating property, or nonparticipating residence is  
10 located. Once recorded, such a waiver shall be binding on any  
11 current and future owners, residents, lessees, invitees, and  
12 users of the participating property, participating residence,  
13 nonparticipating property, or nonparticipating residence for  
14 enforcement purposes. An owner of any participating residence  
15 or nonparticipating residence shall disclose the existence of  
16 such a waiver to any lessee before entering any new lease for  
17 the residence.

18 A seller or transferor of a participating property,  
19 participating residence, nonparticipating property,  
20 nonparticipating residence, or any combination of those  
21 properties or residences shall disclose the existence of such  
22 a waiver to any buyer or transferee before any sale or transfer  
23 of the property. If disclosure of the waiver occurs after the  
24 buyer has made an offer to purchase the property, the seller  
25 shall disclose the existence of the waiver before accepting  
26 the buyer's offer and shall (1) allow the buyer an opportunity

1 to review the disclosure and (2) inform the buyer that the  
2 buyer has the right to amend the buyer's offer.

3 (f-5) A county may designate commercial wind energy  
4 facilities and commercial solar energy facilities as permitted  
5 uses for certain zoning districts.

6 (g) A county may not place any restriction on the  
7 installation or use of a commercial wind energy facility or a  
8 commercial solar energy facility unless it adopts an ordinance  
9 that complies with this Section. A county may not establish  
10 siting standards for supporting facilities that preclude  
11 development of commercial wind energy facilities or commercial  
12 solar energy facilities , unless the development is determined  
13 by the county, based on evidence presented at a public  
14 hearing, to be detrimental to the public health, safety, or  
15 welfare of county residents, or the development site or  
16 adjacent property is consistent with the legal standard set  
17 forth in La Salle National Bank of Chicago v. Cook County, 12  
18 Ill.2d 40 (1957).

19 A request for siting approval or a special use permit for a  
20 commercial wind energy facility or a commercial solar energy  
21 facility, or modification of an approved siting or special use  
22 permit, shall be approved if the request is in compliance with  
23 the standards and conditions imposed in this Act, the zoning  
24 ordinance adopted consistent with this Act, and the conditions  
25 imposed under State and federal statutes and regulations and  
26 if the approval would not be invalid considering the following

1 factors: -

2 (1) the uniformity with the existing uses and zoning  
3 of nearby property;

4 (2) the extent to which property values are diminished  
5 by the particular zoning restrictions;

6 (3) the extent to which the destruction of property  
7 values promotes the health, safety, morals, or general  
8 welfare of the public;

9 (4) the relative gain to the public as compared to the  
10 hardship imposed on the individual property owner;

11 (5) the suitability of the property for the zoned  
12 purpose;

13 (6) the length of time the property has been vacant as  
14 zoned considered in the context of land development in the  
15 area;

16 (7) the care with which a community has planned its  
17 land use development; and

18 (8) the community need for the proposed use.

19 (g-5) A county may not approve a request for siting  
20 approval or a special use permit for a commercial wind energy  
21 facility or a commercial solar energy facility or the  
22 modification of an approved siting or special use permit if  
23 the proposal disturbs more than one acre of land, unless the  
24 facility owner has obtained a National Pollution Discharge  
25 Elimination System permit from the Illinois Environmental  
26 Protection Agency.

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

6           (h-5) A county may deny a request for a special use permit  
7 for a commercial solar energy facility or commercial wind  
8 energy facility in areas planned as a residential development  
9 under either a county comprehensive plan or a municipal  
10 comprehensive plan.

11           (i) (Blank).

12           (i-5) All siting approval or special use permit  
13 application fees for a commercial wind energy facility or  
14 commercial solar energy facility must be reasonable. Fees that  
15 do not exceed \$5,000 per each megawatt of nameplate capacity  
16 of the energy facility, up to a maximum of \$125,000, shall be  
17 considered presumptively reasonable. A county may also require  
18 reimbursement from the applicant for any reasonable expenses  
19 incurred by the county in processing the siting approval or  
20 special use permit application in excess of the maximum fee. A  
21 siting approval or special use permit shall not be subject to  
22 any time deadline to start construction or obtain a building  
23 permit of less than 5 years from the date of siting approval or  
24 special use permit approval. A county shall allow an applicant  
25 to request an extension of the deadline based upon reasonable  
26 cause for the extension request. The exemption shall not be

1 unreasonably withheld, conditioned, or denied.

2 (i-10) A county may require, for a commercial wind energy  
3 facility or commercial solar energy facility, a single  
4 building permit and a reasonable permit fee for the facility  
5 which includes all supporting facilities. County building  
6 permit fees for commercial wind energy facility or commercial  
7 solar energy facility that do not exceed \$5,000 per each  
8 megawatt of nameplate capacity of the energy facility, up to a  
9 maximum of \$75,000, shall be considered presumptively  
10 reasonable. A county may also require reimbursement from the  
11 applicant for any reasonable expenses incurred by the county  
12 in processing the building permit in excess of the maximum  
13 fee. A county may require an applicant, upon start of  
14 construction of the facility, to maintain liability insurance  
15 that is commercially reasonable and consistent with prevailing  
16 industry standards for similar energy facilities.

17 (j) A county may set standards for construction, repair,  
18 decommissioning, or deconstruction of a commercial wind energy  
19 facility or commercial solar energy facility within its  
20 boundaries. Any ~~Except as otherwise provided in this Section,~~  
21 ~~a county shall not require~~ standards for construction, repair,  
22 decommissioning, or deconstruction of a commercial wind energy  
23 facility or commercial solar energy facility imposed by a  
24 county must satisfy the minimum standards set forth ~~or related~~  
25 ~~financial assurances that are more restrictive than those~~  
26 ~~included~~ in the Department of Agriculture's standard wind farm

1 agricultural impact mitigation agreement, template 81818, or  
2 standard solar agricultural impact mitigation agreement,  
3 version 8.19.19, as applicable and in effect on December 31,  
4 2022, or the most recent version of the mitigation agreements  
5 if any subsequent version has been adopted after December 31,  
6 2022. The amount of any decommissioning payment shall be in  
7 accordance with the financial assurance required by this  
8 Section ~~those agricultural impact mitigation agreements.~~

9 (j-5) Each ~~A~~ commercial wind energy facility or ~~a~~  
10 commercial solar energy facility shall require ~~file~~ a farmland  
11 drainage plan that outlines ~~with the county and impacted~~  
12 ~~drainage districts outlining~~ how surface and subsurface  
13 drainage of farmland will be restored during and following  
14 construction or deconstruction of the facility that is  
15 approved by the county and impacted drainage districts. The  
16 plan is to be created by an independent consultant, selected  
17 by the county, and paid for ~~independently~~ by the facility  
18 developer and shall include the location of any potentially  
19 impacted drainage district facilities to the extent this  
20 information is publicly available from the county or the  
21 drainage district, plans to repair any subsurface drainage  
22 affected during construction or deconstruction using  
23 procedures outlined in the agricultural impact mitigation  
24 agreement entered into by the commercial wind energy facility  
25 owner or commercial solar energy facility owner, and  
26 procedures for the repair and restoration of surface drainage

1 affected during construction or deconstruction. All surface  
2 and subsurface damage shall be repaired as soon as reasonably  
3 practicable. The county and impacted drainage districts shall  
4 complete review of the farmland drainage plan within 60 days  
5 after submission of the plan to the county. Upon completion of  
6 review, the county and impacted drainage districts shall issue  
7 a written determination to the facility developer on its  
8 decision to either approve the plan, or deny the plan stating,  
9 specifically, the reason for denial of the plan.

10 (j-10) In accordance with the Renewable Energy Facilities  
11 Agricultural Impact Mitigation Act, a facility owner shall  
12 provide the county where a commercial solar energy facility or  
13 commercial wind energy facility is to be located with a  
14 deconstruction plan that has been prepared by a professional  
15 engineer licensed under the Professional Engineering Practice  
16 Act of 1989, who has been selected by the facility owner. The  
17 deconstruction plan shall contain information that satisfies  
18 each of the components of deconstruction as set forth in this  
19 Section and in the construction and deconstruction standards  
20 and policies of the Department of Agriculture's standard wind  
21 farm agricultural impact mitigation agreement, template 81818,  
22 or standard solar agricultural impact mitigation agreement,  
23 version 8.19.19, as applicable and in effect on December 31,  
24 2022, or the most recent version of the mitigation agreements  
25 if any subsequent version has been adopted after December 31,  
26 2022. The county shall have its own professional engineer

1 review the deconstruction plan and either approve or deny the  
2 deconstruction plan within 60 days after a complete submittal.  
3 If the deconstruction plan is denied, the county shall provide  
4 a written statement of the specific reasons for denial. The  
5 facility owner may file a revised deconstruction plan that  
6 addresses the specific reasons that led to the denial of the  
7 initial deconstruction plan. The county shall review and act  
8 on any revised deconstruction plan within 30 days after it is  
9 resubmitted. The facility owner shall reevaluate the estimated  
10 costs of deconstruction of any facility after the fifth  
11 anniversary of the commercial operation date and every 5 years  
12 thereafter. The facility owner shall file with the county, on  
13 or before the end of the fifth year of commercial operation,  
14 and every 5 years thereafter, for approval by the county, an  
15 updated deconstruction plan prepared by a professional  
16 engineer who has been selected by the county. Based on an  
17 initial evaluation or reevaluation during the county approval  
18 process, the county may require changes in the level of  
19 financial assurance required from the facility owner. If the  
20 county is unable to perform to its satisfaction, the necessary  
21 investigations to approve the deconstruction plan filed by the  
22 facility owner, then the county and facility may mutually  
23 agree on the selection of a professional engineer, independent  
24 of the facility owner, to conduct any necessary investigations  
25 to approve the deconstruction plan. The facility owner shall  
26 be responsible for the cost of the preparation of the

1 deconstruction plan by its professional engineer or any  
2 independent professional engineer and the cost of any plan  
3 reviews by the professional engineer selected by the county. A  
4 commercial solar energy facility owner or commercial wind  
5 energy facility owner shall provide the county with an  
6 appropriate financial assurance mechanism consistent with the  
7 financial requirements of this subsection, which shall be set  
8 forth in the Department of Agriculture's standard wind farm  
9 agricultural impact mitigation agreement, template 81818, or  
10 standard solar agricultural impact mitigation agreement,  
11 version 8.19.19, as applicable and in effect on December 31,  
12 2022, or the most recent version of the mitigation agreements  
13 if any subsequent version has been adopted after December 31,  
14 2022. The financial assurance shall be sufficient to cover the  
15 estimated costs of public safety or emergency repairs to the  
16 facility if damage to the facility is caused by natural  
17 disaster or by operational malfunction and the estimated costs  
18 of repair or deconstruction of the facility in the event of  
19 abandonment of a commercial wind energy facility or  
20 abandonment of a commercial solar energy facility as defined  
21 in Section 10 of the Renewable Energy Facilities Agricultural  
22 Impact Mitigation Act. The facility owner shall provide the  
23 county with the initial financial assurance to cover 100% of  
24 the estimated deconstruction costs prior to the commercial  
25 operation date. A county may use the financial assurance  
26 provided by the facility owner to cover public safety or

1 emergency repairs that are not timely addressed by the  
2 facility owner, as determined by the county's designated  
3 representative. If a county must use a portion of the  
4 financial assurance to address any public safety or emergency  
5 repairs or to deconstruct a portion of the facility, the  
6 facility owner shall replenish the financial assurance for the  
7 amount used within 60 days after the expenditure of the  
8 financial assurance consistent with the Department's standard  
9 agricultural impact mitigation agreement. The purpose of the  
10 financial assurance shall be to assure deconstruction in the  
11 event of an abandonment of a commercial solar energy facility  
12 or commercial wind energy facility or to cover the estimated  
13 costs of public safety or emergency repairs to the facility in  
14 the event of damage to the facility caused by natural disaster  
15 or operational malfunction.

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

20 (l) A county may require certain vegetative screening  
21 between a commercial solar energy facility and  
22 nonparticipating residences. A county may not require earthen  
23 berms or similar structures, except that a county may require  
24 earthen berms for ground-based commercial solar energy  
25 projects and may adopt regulations governing the construction  
26 and maintenance of such earthen berms. Vegetative screening

1 requirements shall be commercially reasonable and limited in  
2 height at full maturity to avoid reduction of the productive  
3 energy output of the commercial solar energy facility. A  
4 county may not require vegetative screening to exceed 5 feet  
5 in height when first installed or prior to commercial  
6 operation date. The screening requirements shall take into  
7 account the size and location of the facility, visibility from  
8 nonparticipating residences, compatibility of native plant  
9 species, cost and feasibility of installation and maintenance,  
10 and industry standards and best practices for commercial solar  
11 energy facilities.

12 (m) A county may set blade tip height limitations for wind  
13 towers in commercial wind energy facilities but may not set a  
14 blade tip height limitation that is more restrictive than the  
15 height allowed under a Determination of No Hazard to Air  
16 Navigation by the Federal Aviation Administration under 14 CFR  
17 Part 77.

18 (n) A county may require that a commercial wind energy  
19 facility owner or commercial solar energy facility owner  
20 provide:

21 (1) the results and recommendations from consultation  
22 with the Illinois Department of Natural Resources that are  
23 obtained through the Ecological Compliance Assessment Tool  
24 (EcoCAT) or a comparable successor tool; and

25 (2) (blank).

26 (o) A county may require a commercial wind energy facility

1 or commercial solar energy facility to adhere to the  
2 recommendations provided by the Illinois Department of Natural  
3 Resources in an EcoCAT natural resource review report under 17  
4 Ill. Adm. Code Part 1075.

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

6 (1) demonstrate avoidance of protected lands as  
7 identified by the Illinois Department of Natural Resources  
8 and the Illinois Nature Preserve Commission; or

9 (2) consider the recommendations of the Illinois  
10 Department of Natural Resources for setbacks from  
11 protected lands, including areas identified by the  
12 Illinois Nature Preserve Commission.

13 (q) A county may require that a facility owner provide  
14 evidence of consultation with the Illinois State Historic  
15 Preservation Office to assess potential impacts on  
16 State-registered historic sites under the Illinois State  
17 Agency Historic Resources Preservation Act.

18 (r) To maximize community benefits, including, but not  
19 limited to, reduced stormwater runoff, flooding, and erosion  
20 at the ground mounted solar energy system, improved soil  
21 health, and increased foraging habitat for game birds,  
22 songbirds, and pollinators, a county may (1) require a  
23 commercial solar energy facility owner to plant, establish,  
24 and maintain for the life of the facility vegetative ground  
25 cover, consistent with the goals of the Pollinator-Friendly  
26 Solar Site Act and (2) require the submittal of a vegetation

1 management plan that is in compliance with the agricultural  
2 impact mitigation agreement in the application to construct  
3 and operate a commercial solar energy facility in the county  
4 if the vegetative ground cover and vegetation management plan  
5 comply with the requirements of the underlying agreement with  
6 the landowner or landowners where the facility will be  
7 constructed.

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

17 (s) If a facility owner enters into a road use agreement  
18 with the Illinois Department of Transportation, a road  
19 district, or other unit of local government relating to a  
20 commercial wind energy facility or a commercial solar energy  
21 facility, the road use agreement shall require the facility  
22 owner to be responsible for (i) the reasonable cost of  
23 improving roads used by the facility owner to construct the  
24 commercial wind energy facility or the commercial solar energy  
25 facility and (ii) the reasonable cost of repairing roads used  
26 by the facility owner during construction of the commercial

1 wind energy facility or the commercial solar energy facility  
2 so that those roads are in a condition that is safe for the  
3 driving public after the completion of the facility's  
4 construction. Roadways improved in preparation for and during  
5 the construction of the commercial wind energy facility or  
6 commercial solar energy facility shall be repaired and  
7 restored to the improved condition at the reasonable cost of  
8 the developer if the roadways have degraded or were damaged as  
9 a result of construction-related activities.

10 The road use agreement shall not require the facility  
11 owner to pay costs, fees, or charges for road work that is not  
12 specifically and uniquely attributable to the construction of  
13 the commercial wind energy facility or the commercial solar  
14 energy facility. No road district or other unit of local  
15 government may request or require permit fees, fines, or other  
16 payment obligations as a requirement for a road use agreement  
17 with a facility owner unless the amount of the reasonable  
18 permit fee or payment is equivalent to the amount of actual  
19 expenses incurred by the road district or other unit of local  
20 government for negotiating, executing, constructing, or  
21 implementing the road use agreement. The road use agreement  
22 shall not require any road work to be performed by or paid for  
23 by the facility owner that is not specifically and uniquely  
24 attributable to the road improvements required for the  
25 construction of the commercial wind energy facility or the  
26 commercial solar energy facility or the restoration of the

1 roads used by the facility owner during construction-related  
2 activities.

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

19 (t) Notwithstanding any other provision of law, a facility  
20 owner with siting approval from a county to construct a  
21 commercial wind energy facility or a commercial solar energy  
22 facility is authorized to cross or impact a drainage system,  
23 including, but not limited to, drainage tiles, open drainage  
24 ditches, culverts, and water gathering vaults, owned or under  
25 the control of a drainage district under the Illinois Drainage  
26 Code , if the facility owner has obtained prior approval of a

1 farmland drainage plan by a county, the impacted drainage  
2 districts, or both the county and the impacted drainage  
3 district ~~without obtaining prior agreement or approval from~~  
4 ~~the drainage district~~ in accordance with the farmland drainage  
5 plan required by subsection (j-5).

6 (u) The amendments to this Section adopted in Public Act  
7 102-1123 do not apply to: (1) an application for siting  
8 approval or for a special use permit for a commercial wind  
9 energy facility or commercial solar energy facility if the  
10 application was submitted to a unit of local government before  
11 January 27, 2023 (the effective date of Public Act 102-1123);  
12 (2) a commercial wind energy facility or a commercial solar  
13 energy facility if the facility owner has submitted an  
14 agricultural impact mitigation agreement to the Department of  
15 Agriculture before January 27, 2023 (the effective date of  
16 Public Act 102-1123); (3) a commercial wind energy or  
17 commercial solar energy development on property that is  
18 located within an enterprise zone certified under the Illinois  
19 Enterprise Zone Act, that was classified as industrial by the  
20 appropriate zoning authority on or before January 27, 2023,  
21 and that is located within 4 miles of the intersection of  
22 Interstate 88 and Interstate 39; or (4) a commercial wind  
23 energy or commercial solar energy development on property in  
24 Madison County that is located within the area that has as its  
25 northern boundary the portion of Drexelius Road that is  
26 between the intersection of Drexelius Road and Wolf Road and

1 the intersection of Drexelius Road and Fosterburg Road, that  
2 has as its eastern boundary the portion of Fosterburg Road  
3 that is between the intersection of Fosterburg Road and  
4 Drexelius Road and the intersection of Fosterburg Road and  
5 Wolf Road, and that has as its southern and western boundaries  
6 the portion of Wolf Road that is between the intersection of  
7 Fosterburg Road and Wolf Road and the intersection of  
8 Drexelius Road and Wolf Road.

9 (Source: P.A. 103-81, eff. 6-9-23; 103-580, eff. 12-8-23;  
10 104-417, eff. 8-15-25; 104-458, eff. 6-1-26.)

11 Section 15. The Renewable Energy Facilities Agricultural  
12 Impact Mitigation Act is amended by changing Sections 10 and  
13 15 as follows:

14 (505 ILCS 147/10)

15 Sec. 10. Definitions. As used in this Act:

16 "Abandonment of a commercial wind energy facility" means  
17 when deconstruction has not been completed within 18 months  
18 after the commercial wind energy facility reaches the end of  
19 its useful life. For purposes of this definition, a commercial  
20 wind energy facility will be presumed to have reached the end  
21 of its useful life if (1) no electricity is generated for a  
22 continuous period of 12 months and (2) the commercial wind  
23 energy facility owner fails, for a period of 6 consecutive  
24 months, to pay the landowner amounts owed in accordance with

1 the underlying agreement.

2 "Abandonment of a commercial solar energy facility" means  
3 when deconstruction has not been completed within 12 months  
4 after the commercial solar energy facility reaches the end of  
5 its useful life. For purposes of this definition, a commercial  
6 solar energy facility shall be presumed to have reached the  
7 end of its useful life if the commercial solar energy facility  
8 owner fails, for a period of 6 consecutive months, to pay the  
9 landowner amounts owed in accordance with the underlying  
10 agreement.

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

15 "Commercial renewable energy facility" means a commercial  
16 wind energy facility or commercial solar energy facility as  
17 defined in this Act.

18 "Commercial solar energy facility" means a solar energy  
19 conversion facility equal to or greater than 500 kilowatts in  
20 total nameplate capacity, including a solar energy conversion  
21 facility seeking an extension of a permit to construct granted  
22 by a county or municipality before the effective date of this  
23 amendatory Act of the 100th General Assembly. "Commercial  
24 solar energy facility" does not include a solar energy  
25 conversion facility: (1) for which a permit to construct has  
26 been issued before the effective date of this amendatory Act

1 of the 100th General Assembly; (2) that is located on land  
2 owned by the commercial solar energy facility owner; (3) that  
3 was constructed before the effective date of this amendatory  
4 Act of the 100th General Assembly; or (4) that is located on  
5 the customer side of the customer's electric meter and is  
6 primarily used to offset that customer's electricity load and  
7 is limited in nameplate capacity to less than or equal to 2,000  
8 kilowatts.

9 "Commercial solar energy facility owner" means a private  
10 commercial enterprise that owns a commercial solar energy  
11 facility. A commercial solar energy facility owner is not nor  
12 shall it be deemed to be a public utility as defined in the  
13 Public Utilities Act.

14 "Commercial wind energy facility" means a wind energy  
15 conversion facility of equal or greater than 500 kilowatts in  
16 total nameplate generating capacity. "Commercial wind energy  
17 facility" includes a wind energy conversion facility seeking  
18 an extension of a permit to construct granted by a county or  
19 municipality before the effective date of this Act.  
20 "Commercial wind energy facility" does not include a wind  
21 energy conversion facility: (1) that has submitted a complete  
22 permit application to a county or municipality and for which  
23 the hearing on the completed application has commenced on the  
24 date provided in the public hearing notice, which must be  
25 before the effective date of this Act; (2) for which a permit  
26 to construct has been issued before the effective date of this

1 Act; or (3) that was constructed before the effective date of  
2 this Act.

3 "Commercial wind energy facility owner" means a private  
4 commercial enterprise that owns or operates a commercial wind  
5 energy facility. A commercial wind energy facility owner is  
6 not nor shall it be deemed to be a public utility as defined in  
7 the Public Utilities Act.

8 "Construction" means the installation, preparation for  
9 installation, or repair of a commercial renewable energy  
10 facility.

11 "County" means the county where the commercial renewable  
12 energy facility is located.

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

17 "Department" means the Department of Agriculture.

18 "Financial assurance" means a reclamation or surety bond,  
19 including both performance bond obligations, and payment bond  
20 obligations, or an irrevocable letter of credit, or other  
21 commercially available financial assurance that is acceptable  
22 to the county, with the county or landowner as beneficiary.

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

26 "Underlying agreement" means the written agreement with a

1 landowner, including, but not limited to, an easement, option,  
2 lease, or license, under the terms of which another person has  
3 constructed, constructs, or intends to construct a commercial  
4 wind energy facility or commercial solar energy facility on  
5 the property of the landowner.

6 (Source: P.A. 99-132, eff. 7-24-15; 100-598, eff. 6-29-18.)

7 (505 ILCS 147/15)

8 Sec. 15. Agricultural impact mitigation agreement.

9 (a) A commercial renewable energy facility owner of a  
10 commercial wind energy facility or a commercial solar energy  
11 facility that is located on landowner property shall enter  
12 into an agricultural impact mitigation agreement with the  
13 Department outlining construction and deconstruction standards  
14 and policies designed to preserve the integrity of any  
15 agricultural land that is impacted by commercial renewable  
16 energy facility construction and deconstruction. The  
17 construction and deconstruction of any commercial solar energy  
18 facility shall be in conformance with the Department's  
19 standard agricultural impact mitigation agreement referenced  
20 in subsection (f) of this Section and any additional standards  
21 set forth by the county in which the facility is to be located  
22 in accordance with subsections (j) through (j-10) of Section  
23 5-12020 of the Counties Code. Except as provided in subsection  
24 (a-5) of this Section, the terms and conditions of the  
25 Department's standard agricultural impact mitigation agreement

1 are subject to and may be modified by an underlying agreement  
2 between the landowner and the commercial solar energy facility  
3 owner.

4 (a-5) Prior to the commencement of construction, a  
5 commercial renewable energy facility owner of a commercial  
6 wind energy facility or a commercial solar energy facility  
7 owner shall submit to the county in which the commercial solar  
8 energy facility is to be located, a deconstruction plan that  
9 has been prepared by a professional engineer licensed under  
10 the Professional Engineering Practice Act of 1989, who has  
11 been selected by the facility owner. The deconstruction plan  
12 shall contain information that satisfies each of the  
13 components of deconstruction as set forth in this Section, and  
14 in the construction and deconstruction standards and policies  
15 of the Department of Agriculture's standard wind farm  
16 agricultural impact mitigation agreement, template 81818, or  
17 standard solar agricultural impact mitigation agreement,  
18 version 8.19.19, as applicable and in effect on December 31,  
19 2022, or the most recent version of the mitigation agreements  
20 if any subsequent version has been adopted after December 31,  
21 2022. The county shall have its own professional engineer  
22 review the deconstruction plan and either approve or deny the  
23 deconstruction plan within 60 days after a complete submittal.  
24 If the deconstruction plan is denied, the county shall provide  
25 a written statement of the specific reasons for denial. The  
26 facility owner may file a revised deconstruction plan that

1 addresses the specific reasons that led to the denial of the  
2 initial deconstruction plan. The county shall review and act  
3 on any revised deconstruction plan within 30 days after it is  
4 resubmitted. The facility owner shall reevaluate the estimated  
5 costs of deconstruction of any facility after the fifth  
6 anniversary, and every 5 years thereafter, of the commercial  
7 operation date. The facility owner shall file with the county  
8 on or before the end of the fifth year of commercial operation,  
9 and then every fifth year thereafter, for approval by the  
10 county, an updated deconstruction plan prepared by a  
11 professional engineer who has been selected by the county.  
12 Based on any initial evaluation or reevaluation during the  
13 county approval process, the county may require changes in the  
14 level of financial assurance required from the facility owner.  
15 If the county is unable to perform, to its satisfaction, the  
16 necessary investigations to approve the deconstruction plan  
17 filed by the facility owner, then the county and facility may  
18 mutually agree on the selection of a professional engineer,  
19 independent of the facility owner, to conduct any necessary  
20 investigations to approve the deconstruction plan. The  
21 facility owner shall be responsible for the cost of the  
22 preparation of the deconstruction plan by its professional  
23 engineer, or any independent professional engineer, and the  
24 cost of any plan reviews by the professional engineer selected  
25 by the county. A commercial solar energy facility owner shall  
26 provide the county with an appropriate financial assurance

1 mechanism consistent with the financial requirements set forth  
2 in this subsection, which shall be set forth in the Department  
3 of Agriculture's Department's standard wind farm agricultural  
4 impact mitigation agreement, template 81818, or standard solar  
5 agricultural impact mitigation agreement, version 8.19.19, as  
6 applicable and in effect on December 31, 2022, or the most  
7 recent version of the mitigation agreements if any subsequent  
8 version have been adopted after December 31, 2022. The  
9 financial assurance shall be sufficient to cover the estimated  
10 costs of public safety or emergency repairs to the facility in  
11 the event of damage to the facility caused by natural disaster  
12 or by operational malfunction, and the estimated costs of  
13 repairs or deconstruction of the facility in the event of  
14 abandonment of the facility. The facility owner shall provide  
15 the county with the initial financial assurance to cover 100%  
16 of the estimated deconstruction costs prior to the commercial  
17 operation date. A county may use the financial assurance  
18 provided by the facility owner to cover public safety or  
19 emergency repairs that are not timely addressed by the  
20 facility owner, as determined by the county's designated  
21 representative. If a county must use a portion of the  
22 financial assurance to address any public safety or emergency  
23 repairs or to deconstruct a portion of the facility, the  
24 facility owner shall replenish the financial assurance for the  
25 amount used within 60 days after the expenditure of the  
26 financial assurance. The purpose of the financial assurance

1 shall be ~~for and~~ to assure deconstruction in the event of an  
2 abandonment of a commercial solar energy facility or  
3 commercial wind energy facility, or to cover the estimated  
4 costs of public safety or emergency repairs to the facility in  
5 the event of damage to the facility caused by natural disaster  
6 or by operational malfunction.

7 (b) The agricultural impact mitigation agreement for a  
8 commercial wind energy facility shall include, but is not  
9 limited to, such items as restoration of agricultural land  
10 affected by construction, deconstruction (including upon  
11 abandonment of a commercial wind energy facility), estimated  
12 costs of public safety or emergency repairs to the facility in  
13 the event of damage to the facility caused by natural disaster  
14 or by operational malfunction, construction staging, and  
15 storage areas; support structures; aboveground facilities; guy  
16 wires and anchors; underground cabling depth; topsoil  
17 replacement; protection and repair of agricultural drainage  
18 tiles; rock removal; repair of compaction and rutting; land  
19 leveling; prevention of soil erosion; repair of damaged soil  
20 conservation practices; compensation for damages to private  
21 property; clearing of trees and brush; interference with  
22 irrigation systems; access roads; weed control; pumping of  
23 water from open excavations; advance notice of access to  
24 private property; indemnification of landowners; ~~and~~  
25 deconstruction plans and financial assurance for  
26 deconstruction (including upon abandonment of a commercial

1 wind energy facility); and estimated costs of public safety or  
2 emergency repairs to the facility in the event of damage to the  
3 facility caused by natural disaster or by operational  
4 malfunction.

5 (b-5) The agricultural impact mitigation agreement for a  
6 commercial solar energy facility shall include, but is not  
7 limited to, such items as restoration of agricultural land  
8 affected by construction, deconstruction (including upon  
9 abandonment of a commercial solar energy facility); the  
10 estimated costs of public safety or emergency repairs to the  
11 facility in the event of damage to the facility caused by  
12 natural disaster or by operational malfunction; support  
13 structures; aboveground facilities; guy wires and anchors;  
14 underground cabling depth; topsoil removal and replacement;  
15 rerouting and permanent repair of agricultural drainage tiles;  
16 rock removal; repair of compaction and rutting; construction  
17 during wet weather; land leveling; prevention of soil erosion;  
18 repair of damaged soil conservation practices; compensation  
19 for damages to private property; clearing of trees and brush;  
20 access roads; weed control; advance notice of access to  
21 private property; indemnification of landowners; and  
22 deconstruction plans and financial assurance for  
23 deconstruction (including upon abandonment of a commercial  
24 solar energy facility); and the estimated costs of public  
25 safety or emergency repairs to the facility in the event of  
26 damage to the facility caused by natural disaster or by

1 operational malfunction. The commercial solar energy facility  
2 owner shall enter into one agricultural impact mitigation  
3 agreement for each commercial solar energy facility.

4 (c) For commercial wind energy facility owners seeking a  
5 permit from a county or municipality for the construction of a  
6 commercial wind energy facility, the agricultural impact  
7 mitigation agreement shall be entered into prior to the public  
8 hearing required prior to a siting decision of a county or  
9 municipality regarding the commercial wind energy facility.

10 The agricultural impact mitigation agreement is binding on any  
11 subsequent commercial wind energy facility owner that takes  
12 ownership of the commercial wind energy facility that is the  
13 subject of the agreement.

14 (c-5) A commercial solar energy facility owner shall, not  
15 less than 45 days prior to commencement of actual  
16 construction, submit to the Department a standard agricultural  
17 impact mitigation agreement as referenced in subsection (f) of  
18 this Section signed by the commercial solar energy facility  
19 owner and including all information required by the  
20 Department. The commercial solar energy facility owner shall  
21 provide either a copy of that submitted agreement or a copy of  
22 the fully executed project-specific agricultural impact  
23 mitigation agreement to the landowner not less than 30 days  
24 prior to the commencement of construction. The agricultural  
25 impact mitigation agreement is binding on any subsequent  
26 commercial solar energy facility owner that takes ownership of

1 the commercial solar energy facility that is the subject of  
2 the agreement.

3 (d) If a commercial renewable energy facility owner seeks  
4 an extension of a permit granted by a county or municipality  
5 for the construction of a commercial wind energy facility  
6 prior to the effective date of this Act, the agricultural  
7 impact mitigation agreement shall be entered into prior to a  
8 decision by the county or municipality to grant the permit  
9 extension.

10 (e) The Department may adopt rules that are necessary and  
11 appropriate for the implementation and administration of  
12 agricultural impact mitigation agreements as required under  
13 this Act.

14 (f) The Department shall make available on its website a  
15 standard agricultural impact mitigation agreement applicable  
16 to all commercial solar energy facilities within 60 days after  
17 the effective date of this amendatory Act of the 100th General  
18 Assembly. The standard agricultural impact mitigation  
19 agreements shall be amended as needed to conform with the  
20 financial assurance procedures and requirements under  
21 subsection (j) through (j-10) of Section 5-12020 of the  
22 Counties Code.

23 (g) Nothing in this amendatory Act of the 100th General  
24 Assembly and nothing in an agricultural impact mitigation  
25 agreement shall be construed to apply to or otherwise impair  
26 an underlying agreement for a commercial solar energy facility

1 entered into prior to the effective date of this amendatory  
2 Act of the 100th General Assembly.

3 (Source: P.A. 99-132, eff. 7-24-15; 100-598, eff. 6-29-18.)

4 Section 95. No acceleration or delay. Where this Act makes  
5 changes in a statute that is represented in this Act by text  
6 that is not yet or no longer in effect (for example, a Section  
7 represented by multiple versions), the use of that text does  
8 not accelerate or delay the taking effect of (i) the changes  
9 made by this Act or (ii) provisions derived from any other  
10 Public Act.