



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB1457

Introduced 1/31/2025, by Sen. Sue Rezin

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-12020

Amends the Counties Code. Provides that a county may not approve the siting of a commercial wind energy facility, a commercial solar energy facility, or both in an unincorporated area that is located within a 3-mile radius of a municipality, if: (1) the municipality has not approved the siting of the facility or facilities at that location; (2) the county board or the corporate authorities of the municipality have determined that any portion of the facility or facilities will be located on land with a Soil Productivity Index that is greater than or equal to 90; or (3) the county board or the corporate authorities of the municipality have determined that the owners or operators of the facility or facilities have failed to comply with one or more National Pollutant Discharge Elimination System (NPDES) requirements for the site. Provides that the provisions apply regardless of whether the municipality has adopted zoning ordinances or is regulating wind farms and electric-generating wind devices under specified provisions of the Illinois Municipal Code. Requires each commercial solar energy facility to have the minimum number of fire hydrants required by ordinances governing the servicing fire department or fire protection district or, if there are no requirements by ordinances governing the servicing fire department or fire protection district, then the minimum number required by the county board. Allows a county to require a commercial solar energy facility to be sited at least 500 feet to the nearest point on the property line of the nonparticipating zoned residential. Effective immediately.

LRB104 09494 RTM 19555 b

1 AN ACT concerning local government.

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

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

6 (55 ILCS 5/5-12020)

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

9 (a) As used in this Section:

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

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

1 Public Act 102-1123).

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

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

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

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

26 "Participating property" means real property that is the

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

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

15 "Protected lands" means real property that is:

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

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

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

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

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

18 (b-5) A county may not approve the siting of a commercial
19 wind energy facility, a commercial solar energy facility, or
20 both in an unincorporated area that is located within a 3-mile
21 radius of a municipality, if:

22 (1) the municipality has not approved the siting of
23 the facility or facilities at that location;

24 (2) the county board or the corporate authorities of
25 the municipality have determined that any portion of the
26 facility or facilities will be located on land with a Soil

1 Productivity Index that is greater than or equal to 90; or
2 (3) the county board or the corporate authorities of
3 the municipality have determined that the owners or
4 operators of the facility or facilities have failed to
5 comply with one or more National Pollutant Discharge
6 Elimination System (NPDES) requirements for the site.

7 This subsection applies regardless of whether the
8 municipality has adopted zoning ordinances under Division 13
9 of Article 11 of the Illinois Municipal Code or is regulating
10 wind farms and electric-generating wind devices under Section
11 11-13-26 of the Illinois Municipal Code.

12 (c) If a county has elected to establish standards under
13 subsection (b), before the county grants siting approval or a
14 special use permit for a commercial wind energy facility or a
15 commercial solar energy facility, or modification of an
16 approved siting or special use permit, the county board of the
17 county in which the facility is to be sited or the zoning board
18 of appeals for the county shall hold at least one public
19 hearing. The public hearing shall be conducted in accordance
20 with the Open Meetings Act and shall be held not more than 60
21 days after the filing of the application for the facility. The
22 county shall allow interested parties to a special use permit
23 an opportunity to present evidence and to cross-examine
24 witnesses at the hearing, but the county may impose reasonable
25 restrictions on the public hearing, including reasonable time
26 limitations on the presentation of evidence and the

1 cross-examination of witnesses. The county shall also allow
2 public comment at the public hearing in accordance with the
3 Open Meetings Act. The county shall make its siting and
4 permitting decisions not more than 30 days after the
5 conclusion of the public hearing. Notice of the hearing shall
6 be published in a newspaper of general circulation in the
7 county. A facility owner must enter into an agricultural
8 impact mitigation agreement with the Department of Agriculture
9 prior to the date of the required public hearing. A commercial
10 wind energy facility owner seeking an extension of a permit
11 granted by a county prior to July 24, 2015 (the effective date
12 of Public Act 99-132) must enter into an agricultural impact
13 mitigation agreement with the Department of Agriculture prior
14 to a decision by the county to grant the permit extension.
15 Counties may allow test wind towers or test solar energy
16 systems to be sited without formal approval by the county
17 board.

18 (d) A county with an existing zoning ordinance in conflict
19 with this Section shall amend that zoning ordinance to be in
20 compliance with this Section within 120 days after January 27,
21 2023 (the effective date of Public Act 102-1123).

22 (e) A county may require:

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

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

1 Public Road Rights-of-Way 1.1 times the maximum blade tip
2 height of the wind tower
3 to the center point of the
4 public road right-of-way

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

12 Overhead Utility Service None
13 Lines to Individual
14 Houses or Outbuildings

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

21 This Section does not exempt or excuse compliance with
22 electric facility clearances approved or required by the
23 National Electrical Code, the ~~The~~ National Electrical

Safety Code, the Illinois Commerce Commission, and the
Federal Energy 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:

Setback Description	Setback Distance
Occupied Community Buildings and Dwellings on Nonparticipating Properties	150 feet from the nearest point on the outside wall of the structure
Boundary Lines of Participating Property	None
Public Road Rights-of-Way	50 feet from the nearest edge
Boundary Lines of	50 feet to the nearest

1 Nonparticipating Property point on the property
2 Not Zoned Residential line of the nonparticipating
3 property

4 Boundary Lines of 500 feet to the nearest
5 Nonparticipating Property point on the property
6 Zoned Residential line of the nonparticipating
7 property zoned residential

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

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

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

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.

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

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

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

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

26 (j) Except as otherwise provided in this Section, a county

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

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

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

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

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) the results of the United States Fish and Wildlife
26 Service's Information for Planning and Consulting

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

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

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

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

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

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

25 (r) To maximize community benefits, including, but not
26 limited to, reduced stormwater runoff, flooding, and erosion

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

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

24 (r-5) Each commercial solar energy facility must have the
25 minimum number of fire hydrants required by ordinances
26 governing the servicing fire department or fire protection

1 district or, if there are no requirements by ordinances
2 governing the servicing fire department or fire protection
3 district, then the minimum number required by the county
4 board.

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

24 The road use agreement shall not require the facility
25 owner to pay costs, fees, or charges for road work that is not
26 specifically and uniquely attributable to the construction of

1 the commercial wind energy facility or the commercial solar
2 energy facility. Road-related fees, permit fees, or other
3 charges imposed by the Illinois Department of Transportation,
4 a road district, or other unit of local government under a road
5 use agreement with the facility owner shall be reasonably
6 related to the cost of administration of the road use
7 agreement.

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

24 (t) Notwithstanding any other provision of law, a facility
25 owner with siting approval from a county to construct a
26 commercial wind energy facility or a commercial solar energy

1 facility is authorized to cross or impact a drainage system,
2 including, but not limited to, drainage tiles, open drainage
3 ditches, culverts, and water gathering vaults, owned or under
4 the control of a drainage district under the Illinois Drainage
5 Code without obtaining prior agreement or approval from the
6 drainage district in accordance with the farmland drainage
7 plan required by subsection (j-5).

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

25 (Source: P.A. 102-1123, eff. 1-27-23; 103-81, eff. 6-9-23;
26 103-580, eff. 12-8-23; revised 7-29-24.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.