

SB3629



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB3629

Introduced 2/5/2026, by Sen. Terri Bryant

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-12020

Amends the Counties Code. Provides that the amendments made by Public Act 102-1123 to provisions concerning commercial wind energy facilities and commercial solar energy facilities do not apply to a commercial wind energy development, a commercial solar energy development, or an energy storage development on property in that located South of Interstate 70 and Edwards County, Franklin County, Hamilton County, Jackson County, Jefferson County, Madison County, Monroe County, Perry County, Randolph County, St. Clair County, Union County, Wabash County, Washington County, Wayne County, or White County.

LRB104 20614 RTM 34106 b

A BILL FOR

1 AN ACT concerning local government.

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

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

6 (55 ILCS 5/5-12020)

7 (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	2.1 times the maximum blade tip
9	Buildings	height of the wind tower to the
10		nearest point on the outside
11		wall of the structure
12	Participating Residences	1.1 times the maximum blade tip
13		height of the wind tower to the
14		nearest point on the outside
15		wall of the structure
16	Nonparticipating Residences	2.1 times the maximum blade tip
17		height of the wind tower to the
18		nearest point on the outside
19		wall of the structure
20	Boundary Lines of	None
21	Participating Property	

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 22 Buildings and Dwellings on 23 Nonparticipating Properties	150 feet from the nearest point on the outside wall 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 solar energy facility" means a "commercial
2 solar energy system" as defined in Section 10-720 of the
3 Property Tax Code. "Commercial solar energy facility" does not
4 mean a utility-scale solar energy facility being constructed
5 at a site that was eligible to participate in a procurement
6 event conducted by the Illinois Power Agency pursuant to
7 subsection (c-5) of Section 1-75 of the Illinois Power Agency
8 Act.

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

16 "Facility owner" means (i) a person with a direct
17 ownership interest in a commercial wind energy facility or a
18 commercial solar energy facility, or both, regardless of
19 whether the person is involved in acquiring the necessary
20 rights, permits, and approvals or otherwise planning for the
21 construction and operation of the facility, and (ii) at the
22 time the facility is being developed, a person who is acting as
23 a developer of the facility by acquiring the necessary rights,
24 permits, and approvals or by planning for the construction and
25 operation of the facility, regardless of whether the person
26 will own or operate the facility.

1 "Nonparticipating property" means real property that is
2 not a participating property.

3 "Nonparticipating residence" means a residence that is
4 located on nonparticipating 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 "Occupied community building" means any one or more of the
9 following buildings that is existing and occupied on the date
10 that the application for a permit to develop the commercial
11 wind energy facility or the commercial solar energy facility
12 is filed with the county: a school, place of worship, day care
13 facility, public library, or community center.

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

24 "Participating residence" means a residence that is
25 located on participating property and that is existing and
26 occupied on the date that an application for a permit to

1 develop the commercial wind energy facility or the commercial
2 solar energy facility is filed with the county.

3 "Protected lands" means real property that is:

4 (1) subject to a permanent conservation right
5 consistent with the Real Property Conservation Rights Act;
6 or

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

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

19 "Wind tower" includes the wind turbine tower, nacelle, and
20 blades.

21 (b) Notwithstanding any other provision of law or whether
22 the county has formed a zoning commission and adopted formal
23 zoning under Section 5-12007, a county may establish standards
24 for commercial wind energy facilities, commercial solar energy
25 facilities, or both. The standards may include all of the
26 requirements specified in this Section but may not include

1 requirements for commercial wind energy facilities or
2 commercial solar energy facilities that are more restrictive
3 than specified in this Section. A county may also regulate the
4 siting of commercial wind energy facilities with standards
5 that are not more restrictive than the requirements specified
6 in this Section in unincorporated areas of the county that are
7 outside the zoning jurisdiction of a municipality and that are
8 outside the 1.5-mile radius surrounding the zoning
9 jurisdiction of a municipality. A county may also regulate the
10 siting of commercial solar energy facilities with standards
11 that are not more restrictive than the requirements specified
12 in this Section in unincorporated areas of the county that are
13 outside of the zoning jurisdiction of a municipality.

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

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

20 (d) A county with an existing zoning ordinance in conflict
21 with this Section shall amend that zoning ordinance to be in
22 compliance with this Section within 120 days after January 27,
23 2023 (the effective date of Public Act 102-1123).

24 (e) A county may require:

25 (1) a wind tower of a commercial wind energy facility
26 to be sited as follows, with setback distances measured

1 from the center of the base of the wind tower:

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

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

22 This Section does not exempt or excuse compliance with

1 electric facility clearances approved or required by the
 2 National Electrical Code, the National Electrical Safety
 3 Code, the Illinois Commerce Commission, and the Federal
 4 Energy Regulatory Commission and their designees or
 5 successors;

6 (2) a wind tower of a commercial wind energy facility
 7 to be sited so that industry standard computer modeling
 8 indicates that any occupied community building or
 9 nonparticipating residence will not experience more than
 10 30 hours per year of shadow flicker under planned
 11 operating conditions;

12 (3) a commercial solar energy facility to be sited as
 13 follows, with setback distances measured from the nearest
 14 edge of any above-ground component of the facility,
 15 excluding fencing:

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

1 edge of the public
 2 right-of-way

3 Boundary Lines of 50 feet to the nearest
 4 Nonparticipating Property point on the property
 5 line of the nonparticipating
 6 property

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

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

15 This subsection (e) shall not preclude the ability of a
 16 county to require a reasonable setback distance between
 17 fencing and public rights-of-way if the requirement is not
 18 specific to commercial wind energy facilities or commercial
 19 solar energy facilities and does not preclude the development
 20 of commercial wind energy facilities or commercial solar
 21 energy facilities or the ability of commercial wind energy
 22 facilities or commercial solar energy facilities to comply
 23 with the requirements set forth in this subsection (e).

24 The requirements set forth in this subsection (e) may be

1 waived subject to the written consent of the owner of each
2 affected nonparticipating property.

3 (f) A county may not set a sound limitation for wind towers
4 in commercial wind energy facilities or any components in
5 commercial solar energy facilities that is more restrictive
6 than the sound limitations established by the Illinois
7 Pollution Control Board under 35 Ill. Adm. Code Parts 900,
8 901, and 910. Additionally, in accordance with Section 25 of
9 the Environmental Protection Act, a participating property,
10 participating residence, nonparticipating property,
11 nonparticipating residence, or any combination of those
12 properties or residences may waive enforcement of the rules
13 adopted by the Illinois Pollution Control Board under 35 Ill.
14 Adm. Code Parts 900, 901, and 910 by written waiver that
15 complies with the applicable directive established in Section
16 25 of the Environmental Protection Act and is recorded in the
17 Office of the Recorder of the county in which the
18 participating property, participating residence,
19 nonparticipating property, or nonparticipating residence is
20 located. Once recorded, such a waiver shall be binding on any
21 current and future owners, residents, lessees, invitees, and
22 users of the participating property, participating residence,
23 nonparticipating property, or nonparticipating residence for
24 enforcement purposes. An owner of any participating residence
25 or nonparticipating residence shall disclose the existence of
26 such a waiver to any lessee before entering any new lease for

1 the residence.

2 A seller or transferor of a participating property,
3 participating residence, nonparticipating property,
4 nonparticipating residence, or any combination of those
5 properties or residences shall disclose the existence of such
6 a waiver to any buyer or transferee before any sale or transfer
7 of the property. If disclosure of the waiver occurs after the
8 buyer has made an offer to purchase the property, the seller
9 shall disclose the existence of the waiver before accepting
10 the buyer's offer and shall (1) allow the buyer an opportunity
11 to review the disclosure and (2) inform the buyer that the
12 buyer has the right to amend the buyer's offer.

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

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

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 (i) (Blank).

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

23 (i-10) A county may require, for a commercial wind energy
24 facility or commercial solar energy facility, a single
25 building permit and a reasonable permit fee for the facility
26 which includes all supporting facilities. County building

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

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

24 (j-5) A commercial wind energy facility or a commercial
25 solar energy facility shall file a farmland drainage plan with
26 the county and impacted drainage districts outlining how

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

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. Vegetative screening requirements
24 shall be commercially reasonable and limited in height at full
25 maturity to avoid reduction of the productive energy output of
26 the commercial solar energy facility. A county may not require

1 vegetative screening to exceed 5 feet in height when first
2 installed or prior to commercial operation date. The screening
3 requirements shall take into account the size and location of
4 the facility, visibility from nonparticipating residences,
5 compatibility of native plant species, cost and feasibility of
6 installation and maintenance, and industry standards and best
7 practices for commercial solar energy facilities.

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

14 (n) A county may require that a commercial wind energy
15 facility owner or commercial solar energy facility owner
16 provide:

17 (1) the results and recommendations from consultation
18 with the Illinois Department of Natural Resources that are
19 obtained through the Ecological Compliance Assessment Tool
20 (EcoCAT) or a comparable successor tool; and

21 (2) (blank).

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

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

2 (1) demonstrate avoidance of protected lands as
3 identified by the Illinois Department of Natural Resources
4 and the Illinois Nature Preserve Commission; or

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

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

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

1 comply with the requirements of the underlying agreement with
2 the landowner or landowners where the facility will be
3 constructed.

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

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

1 the construction of the commercial wind energy facility or
2 commercial solar energy facility shall be repaired and
3 restored to the improved condition at the reasonable cost of
4 the developer if the roadways have degraded or were damaged as
5 a result of construction-related activities.

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

25 (s-5) The facility owner shall also compensate landowners
26 for crop losses or other agricultural damages resulting from

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

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

25 (u) The amendments to this Section adopted in Public Act
26 102-1123 do not apply to: (1) an application for siting

1 approval or for a special use permit for a commercial wind
2 energy facility or commercial solar energy facility if the
3 application was submitted to a unit of local government before
4 January 27, 2023 (the effective date of Public Act 102-1123);
5 (2) a commercial wind energy facility or a commercial solar
6 energy facility if the facility owner has submitted an
7 agricultural impact mitigation agreement to the Department of
8 Agriculture before January 27, 2023 (the effective date of
9 Public Act 102-1123); (3) a commercial wind energy or
10 commercial solar energy development on property that is
11 located within an enterprise zone certified under the Illinois
12 Enterprise Zone Act, that was classified as industrial by the
13 appropriate zoning authority on or before January 27, 2023,
14 and that is located within 4 miles of the intersection of
15 Interstate 88 and Interstate 39; ~~or~~ (4) a commercial wind
16 energy or commercial solar energy development on property in
17 Madison County that is located within the area that has as its
18 northern boundary the portion of Drexelius Road that is
19 between the intersection of Drexelius Road and Wolf Road and
20 the intersection of Drexelius Road and Fosterburg Road, that
21 has as its eastern boundary the portion of Fosterburg Road
22 that is between the intersection of Fosterburg Road and
23 Drexelius Road and the intersection of Fosterburg Road and
24 Wolf Road, and that has as its southern and western boundaries
25 the portion of Wolf Road that is between the intersection of
26 Fosterburg Road and Wolf Road and the intersection of

1 Drexelius Road and Wolf Road; or (5) a commercial wind energy
2 development, a commercial solar energy development, or an
3 energy storage development on property that is located South
4 of Interstate Route 70 and within Edwards County, Franklin
5 County, Hamilton County, Jackson County, Jefferson County,
6 Madison County, Monroe County, Perry County, Randolph County,
7 St. Clair County, Union County, Wabash County, Washington
8 County, Wayne County, or White County.

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 95. No acceleration or delay. Where this Act makes
12 changes in a statute that is represented in this Act by text
13 that is not yet or no longer in effect (for example, a Section
14 represented by multiple versions), the use of that text does
15 not accelerate or delay the taking effect of (i) the changes
16 made by this Act or (ii) provisions derived from any other
17 Public Act.