



Sen. Steve Stadelman

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10300HB3445sam002

LRB103 29599 SPS 62298 a

1 AMENDMENT TO HOUSE BILL 3445

2 AMENDMENT NO. _____. Amend House Bill 3445 on page 1,
3 line 5, by inserting "and adding Section 1-129"; and

4 on page 173, immediately below line 3, by inserting the
5 following:

6 "(20 ILCS 3855/1-129 new)

7 Sec. 1-129. Policy study.

8 (a) The General Assembly finds that:

9 (1) in 2021, Illinois became the first state in the
10 Midwest to mandate a clean energy future when it enacted
11 the Climate and Equitable Jobs Act (Public Act 102-662);

12 (2) through the Climate and Equitable Jobs Act,
13 Illinois established a plan to completely decarbonize its
14 energy sector by 2050 in an equitable manner that invests
15 in the State's workforce;

16 (3) technology in the energy sector continues to

1 advance creating cleaner and more efficient options to
2 help the State attain the target of 50% renewable energy
3 by 2040; and

4 (4) while numerous legislative proposals purport to
5 help the State on its path to equitably attain 100% clean
6 energy, it is important to have a neutral party with
7 relevant expertise evaluate each proposal to ensure it is
8 consistent with the State's goals and maximizes benefits
9 to Illinois residents.

10 (b) The General Assembly intends:

11 (1) to prioritize the public interest over the profit
12 motives of utilities and private developers; and

13 (2) to invest in projects that reduce harmful
14 emissions and contribute to the clean economy.

15 (c) The Agency shall commission and publish a policy study
16 to evaluate the potential impacts of the proposals described
17 in subsection (g). The potential impacts may include, but are
18 not limited to, support for Illinois' decarbonization goals,
19 the environment, grid reliability, carbon and other pollutant
20 emissions, resource adequacy, long-term and short-term
21 electric rates, environmental justice communities, jobs, and
22 the economy. Where applicable, the study shall address the
23 impact of a proposal with respect to reports by the
24 Midcontinent Independent System Operator, PJM, and National
25 Energy Reliability Council staff that Illinois has begun to
26 experience resource adequacy issues.

1 (d) The Agency shall retain the services of technical and
2 policy experts with energy market and other relevant fields of
3 expertise. The technical and policy experts may include the
4 existing planning and procurement consultant and applicable
5 subcontractors and the procurement administrator and
6 applicable subcontractors. The Illinois Commerce Commission,
7 the Illinois Environmental Protection Agency, and the
8 Department of Commerce and Economic Opportunity shall provide
9 support to and consult with the Agency. The Agency may consult
10 with other State agencies, commissions, or task forces as
11 needed. The Agency may consult with and seek assistance from
12 the Regional Transmission Organizations PJM and MISO

13 (e) The Agency may solicit information, including
14 confidential or proprietary information, from entities likely
15 to be impacted by the proposals described in subsection (g)
16 for purposes of this study. Any confidential or proprietary
17 information shall be kept confidential and is not subject to
18 disclosure under the Freedom of Information Act.

19 (f) The Agency shall publish a final policy study no later
20 than February 15, 2024 and suitable copies shall be delivered
21 to the Governor and members of the General Assembly. Prior to
22 publishing the final policy study, the Agency shall publish a
23 preliminary draft of the policy study and provide for a 20-day
24 open public comment period. The Agency shall review public
25 comments and publish a final policy study no later than 20 days
26 after the public comment period ends. The policy study shall

1 include policy recommendations to the General Assembly.

2 (g) The policy study shall evaluate the following
3 proposals and may consider or suggest additional or
4 alternative items:

5 (1) House Bill 2132 of the 103rd General Assembly as
6 it passed out of the House on March 24, 2023 or a similar
7 pilot program to establish one new utility-scale offshore
8 wind project capable of producing at least 700,000
9 megawatt hours annually for at least 20 years in Lake
10 Michigan that includes an equity and inclusion plan to
11 create job opportunities for underrepresented populations
12 in addition to equity investment eligible communities and
13 a fully executed project labor agreement. The pilot
14 program may result in an increase in the amounts paid by
15 eligible retail customers in connection with electric
16 service that shall not exceed 0.25% of the amount paid per
17 kilowatt hour by those customers during the year ending
18 May 31, 2009.

19 (2) Senate Bill 1587 and amendments to Senate Bill
20 1587 of the 103rd General Assembly filed prior to May 31,
21 2023 or a similar proposal for the deployment of energy
22 storage systems supported by the State through the
23 development of energy storage credit targets for the
24 Agency to procure on behalf of Illinois electric utilities
25 from privately owned, large scale energy storage providers
26 using energy storage contracts of at least 15 year

1 durations based on a competitive energy storage
2 procurement plan developed by the Agency designed to
3 enhance overall grid reliability, flexibility and
4 efficiency, and to lower electricity prices. The plan must
5 require participants to comply with the equity
6 accountability system requirements in subsection (c-10) of
7 Section 1-75 and to submit proof of project labor
8 agreements. For purposes of this policy study, it should
9 be assumed that the costs associated with procuring energy
10 storage credits shall be recovered through tariffed
11 charges assessed across all retail customers in a uniform
12 cents per kilowatt hour charge. In addition to large scale
13 energy storage, the proposal shall also include the
14 creation of distributed level energy storage programs
15 through utility tariffs as approved by the Illinois
16 Commerce Commission. The programs shall include a
17 residential and a commercial storage program that would
18 allow customer-sited batteries to provide grid benefits
19 and cost-savings to ratepayers. The proposal shall also
20 include a community solar energy storage program intended
21 to serve as a peak reduction program by utilizing
22 community solar paired storage projects deployed daily in
23 summer months during peak hours. The installation of the
24 energy storage systems associated with these distributed
25 renewable systems must comply with the prevailing wage
26 requirements described in subparagraph (Q) of paragraph

1 (1) of subsection (c) of Section 1-75.

2 (3) Reforms to the Agency's capacity procurement
3 process described in Senate Bill 2552 of the 103rd General
4 Assembly, including developing capacity procurement plans
5 for alternative retail electric suppliers and a capacity
6 procurement plan designed to ensure long-term resource
7 adequacy at the lowest environmentally safe cost over
8 time. The study shall analyze whether the current capacity
9 programs operated by PJM and MISO are effectively serving
10 the ratepayers of Illinois and whether changes are needed
11 to the way in which capacity is procured in Illinois. The
12 study shall evaluate the effectiveness of the potential
13 for new capacity procurement processes, as contemplated by
14 this proposal, at the Agency to provide for reliable and
15 costs effective energy service by guaranteeing adequate
16 capacity reserves compared to those operated by PJM and
17 MISO.

18 (4) A policy granting incumbent electric transmission
19 owners the right to construct, own, and maintain electric
20 transmission lines approved for construction in a
21 comprehensive transmission plan designed to connect
22 facilities owned by the incumbent electric transmission
23 owner under the functional control of a regional
24 transmission operator. The policy must include the right
25 for an incumbent electric transmission line owner to
26 assign its right to construct, own, and maintain an

1 electric transmission line to a transmission affiliate.
2 The study shall report on the issues arising from
3 oversight of the Illinois grid being split between 2
4 different regional transmission operators and the
5 challenges that causes regarding proper transmission
6 planning and in infrastructure investment to support
7 existing and new electric generation facilities that do
8 not emit carbon dioxide, including renewable energy
9 resources. The study shall also report on the differences
10 and relative effectiveness between PJM and MISO on their
11 capacity and transmission planning. The study shall also
12 evaluate the rate impact, timeliness, and efficiency of
13 transmission line projects, in other states if necessary,
14 constructed by public utilities compared to those
15 constructed by private entities.

16 As used in this paragraph:

17 "Electric transmission line" means a transmission line
18 that is designed and constructed with the capability of
19 being safely and reliably energized at 100 kilovolts or
20 more and its associated transmission facilities, including
21 transmission substations.

22 "Incumbent electric transmission line" means any
23 public utility or electric cooperative that owns,
24 operates, and maintains at least one electric transmission
25 line in this State.

26 (5) A policy establishing high voltage direct current

1 renewable energy credits that requires the Agency to
2 procure contracts with at least 25 years but no more than
3 40 years duration for the delivery of renewable energy
4 credits on behalf of electric utilities in Illinois with
5 at least 300,000 customers from a high voltage direct
6 current transmission facility with more than 100 miles of
7 underground transmission lines in this State capable of
8 transmitting electricity at or above 525 kilovolts and
9 delivering power in the PJM market. High voltage direct
10 current renewable energy credits procured by the Agency
11 pursuant to this policy would not count toward the
12 renewable energy credit purchase targets in subsection (c)
13 of Section 1-75. The study shall also evaluate the power
14 price impact, including net rate impact, to Illinois
15 ratepayers. The study shall evaluate whether a 25-year to
16 40-year guaranteed contract is necessary to build such a
17 project. The study shall also evaluate whether the policy
18 creates incentives for renewable development in states
19 that do not share Illinois' commitment to fair labor and
20 equity standards.

21 Section 10. The Illinois Procurement Code is amended by
22 changing Section 1-10 as follows:

23 (30 ILCS 500/1-10)

24 Sec. 1-10. Application.

1 (a) This Code applies only to procurements for which
2 bidders, offerors, potential contractors, or contractors were
3 first solicited on or after July 1, 1998. This Code shall not
4 be construed to affect or impair any contract, or any
5 provision of a contract, entered into based on a solicitation
6 prior to the implementation date of this Code as described in
7 Article 99, including, but not limited to, any covenant
8 entered into with respect to any revenue bonds or similar
9 instruments. All procurements for which contracts are
10 solicited between the effective date of Articles 50 and 99 and
11 July 1, 1998 shall be substantially in accordance with this
12 Code and its intent.

13 (b) This Code shall apply regardless of the source of the
14 funds with which the contracts are paid, including federal
15 assistance moneys. This Code shall not apply to:

16 (1) Contracts between the State and its political
17 subdivisions or other governments, or between State
18 governmental bodies, except as specifically provided in
19 this Code.

20 (2) Grants, except for the filing requirements of
21 Section 20-80.

22 (3) Purchase of care, except as provided in Section
23 5-30.6 of the Illinois Public Aid Code and this Section.

24 (4) Hiring of an individual as an employee and not as
25 an independent contractor, whether pursuant to an
26 employment code or policy or by contract directly with

1 that individual.

2 (5) Collective bargaining contracts.

3 (6) Purchase of real estate, except that notice of
4 this type of contract with a value of more than \$25,000
5 must be published in the Procurement Bulletin within 10
6 calendar days after the deed is recorded in the county of
7 jurisdiction. The notice shall identify the real estate
8 purchased, the names of all parties to the contract, the
9 value of the contract, and the effective date of the
10 contract.

11 (7) Contracts necessary to prepare for anticipated
12 litigation, enforcement actions, or investigations,
13 provided that the chief legal counsel to the Governor
14 shall give his or her prior approval when the procuring
15 agency is one subject to the jurisdiction of the Governor,
16 and provided that the chief legal counsel of any other
17 procuring entity subject to this Code shall give his or
18 her prior approval when the procuring entity is not one
19 subject to the jurisdiction of the Governor.

20 (8) (Blank).

21 (9) Procurement expenditures by the Illinois
22 Conservation Foundation when only private funds are used.

23 (10) (Blank).

24 (11) Public-private agreements entered into according
25 to the procurement requirements of Section 20 of the
26 Public-Private Partnerships for Transportation Act and

1 design-build agreements entered into according to the
2 procurement requirements of Section 25 of the
3 Public-Private Partnerships for Transportation Act.

4 (12) (A) Contracts for legal, financial, and other
5 professional and artistic services entered into by the
6 Illinois Finance Authority in which the State of Illinois
7 is not obligated. Such contracts shall be awarded through
8 a competitive process authorized by the members of the
9 Illinois Finance Authority and are subject to Sections
10 5-30, 20-160, 50-13, 50-20, 50-35, and 50-37 of this Code,
11 as well as the final approval by the members of the
12 Illinois Finance Authority of the terms of the contract.

13 (B) Contracts for legal and financial services entered
14 into by the Illinois Housing Development Authority in
15 connection with the issuance of bonds in which the State
16 of Illinois is not obligated. Such contracts shall be
17 awarded through a competitive process authorized by the
18 members of the Illinois Housing Development Authority and
19 are subject to Sections 5-30, 20-160, 50-13, 50-20, 50-35,
20 and 50-37 of this Code, as well as the final approval by
21 the members of the Illinois Housing Development Authority
22 of the terms of the contract.

23 (13) Contracts for services, commodities, and
24 equipment to support the delivery of timely forensic
25 science services in consultation with and subject to the
26 approval of the Chief Procurement Officer as provided in

1 subsection (d) of Section 5-4-3a of the Unified Code of
2 Corrections, except for the requirements of Sections
3 20-60, 20-65, 20-70, and 20-160 and Article 50 of this
4 Code; however, the Chief Procurement Officer may, in
5 writing with justification, waive any certification
6 required under Article 50 of this Code. For any contracts
7 for services which are currently provided by members of a
8 collective bargaining agreement, the applicable terms of
9 the collective bargaining agreement concerning
10 subcontracting shall be followed.

11 On and after January 1, 2019, this paragraph (13),
12 except for this sentence, is inoperative.

13 (14) Contracts for participation expenditures required
14 by a domestic or international trade show or exhibition of
15 an exhibitor, member, or sponsor.

16 (15) Contracts with a railroad or utility that
17 requires the State to reimburse the railroad or utilities
18 for the relocation of utilities for construction or other
19 public purpose. Contracts included within this paragraph
20 (15) shall include, but not be limited to, those
21 associated with: relocations, crossings, installations,
22 and maintenance. For the purposes of this paragraph (15),
23 "railroad" means any form of non-highway ground
24 transportation that runs on rails or electromagnetic
25 guideways and "utility" means: (1) public utilities as
26 defined in Section 3-105 of the Public Utilities Act, (2)

1 telecommunications carriers as defined in Section 13-202
2 of the Public Utilities Act, (3) electric cooperatives as
3 defined in Section 3.4 of the Electric Supplier Act, (4)
4 telephone or telecommunications cooperatives as defined in
5 Section 13-212 of the Public Utilities Act, (5) rural
6 water or waste water systems with 10,000 connections or
7 less, (6) a holder as defined in Section 21-201 of the
8 Public Utilities Act, and (7) municipalities owning or
9 operating utility systems consisting of public utilities
10 as that term is defined in Section 11-117-2 of the
11 Illinois Municipal Code.

12 (16) Procurement expenditures necessary for the
13 Department of Public Health to provide the delivery of
14 timely newborn screening services in accordance with the
15 Newborn Metabolic Screening Act.

16 (17) Procurement expenditures necessary for the
17 Department of Agriculture, the Department of Financial and
18 Professional Regulation, the Department of Human Services,
19 and the Department of Public Health to implement the
20 Compassionate Use of Medical Cannabis Program and Opioid
21 Alternative Pilot Program requirements and ensure access
22 to medical cannabis for patients with debilitating medical
23 conditions in accordance with the Compassionate Use of
24 Medical Cannabis Program Act.

25 (18) This Code does not apply to any procurements
26 necessary for the Department of Agriculture, the

1 Department of Financial and Professional Regulation, the
2 Department of Human Services, the Department of Commerce
3 and Economic Opportunity, and the Department of Public
4 Health to implement the Cannabis Regulation and Tax Act if
5 the applicable agency has made a good faith determination
6 that it is necessary and appropriate for the expenditure
7 to fall within this exemption and if the process is
8 conducted in a manner substantially in accordance with the
9 requirements of Sections 20-160, 25-60, 30-22, 50-5,
10 50-10, 50-10.5, 50-12, 50-13, 50-15, 50-20, 50-21, 50-35,
11 50-36, 50-37, 50-38, and 50-50 of this Code; however, for
12 Section 50-35, compliance applies only to contracts or
13 subcontracts over \$100,000. Notice of each contract
14 entered into under this paragraph (18) that is related to
15 the procurement of goods and services identified in
16 paragraph (1) through (9) of this subsection shall be
17 published in the Procurement Bulletin within 14 calendar
18 days after contract execution. The Chief Procurement
19 Officer shall prescribe the form and content of the
20 notice. Each agency shall provide the Chief Procurement
21 Officer, on a monthly basis, in the form and content
22 prescribed by the Chief Procurement Officer, a report of
23 contracts that are related to the procurement of goods and
24 services identified in this subsection. At a minimum, this
25 report shall include the name of the contractor, a
26 description of the supply or service provided, the total

1 amount of the contract, the term of the contract, and the
2 exception to this Code utilized. A copy of any or all of
3 these contracts shall be made available to the Chief
4 Procurement Officer immediately upon request. The Chief
5 Procurement Officer shall submit a report to the Governor
6 and General Assembly no later than November 1 of each year
7 that includes, at a minimum, an annual summary of the
8 monthly information reported to the Chief Procurement
9 Officer. This exemption becomes inoperative 5 years after
10 June 25, 2019 (the effective date of Public Act 101-27).

11 (19) Acquisition of modifications or adjustments,
12 limited to assistive technology devices and assistive
13 technology services, adaptive equipment, repairs, and
14 replacement parts to provide reasonable accommodations (i)
15 that enable a qualified applicant with a disability to
16 complete the job application process and be considered for
17 the position such qualified applicant desires, (ii) that
18 modify or adjust the work environment to enable a
19 qualified current employee with a disability to perform
20 the essential functions of the position held by that
21 employee, (iii) to enable a qualified current employee
22 with a disability to enjoy equal benefits and privileges
23 of employment as are enjoyed by other similarly situated
24 employees without disabilities, and (iv) that allow a
25 customer, client, claimant, or member of the public
26 seeking State services full use and enjoyment of and

1 access to its programs, services, or benefits.

2 For purposes of this paragraph (19):

3 "Assistive technology devices" means any item, piece
4 of equipment, or product system, whether acquired
5 commercially off the shelf, modified, or customized, that
6 is used to increase, maintain, or improve functional
7 capabilities of individuals with disabilities.

8 "Assistive technology services" means any service that
9 directly assists an individual with a disability in
10 selection, acquisition, or use of an assistive technology
11 device.

12 "Qualified" has the same meaning and use as provided
13 under the federal Americans with Disabilities Act when
14 describing an individual with a disability.

15 (20) Procurement expenditures necessary for the
16 Illinois Commerce Commission to hire third-party
17 facilitators pursuant to Sections 16-105.17 and 16-108.18
18 of the Public Utilities Act or an ombudsman pursuant to
19 Section 16-107.5 of the Public Utilities Act, a
20 facilitator pursuant to Section 16-105.17 of the Public
21 Utilities Act, or a grid auditor pursuant to Section
22 16-105.10 of the Public Utilities Act.

23 (21) Procurement expenditures for the purchase,
24 renewal, and expansion of software, software licenses, or
25 software maintenance agreements that support the efforts
26 of the Illinois State Police to enforce, regulate, and

1 administer the Firearm Owners Identification Card Act, the
2 Firearm Concealed Carry Act, the Firearms Restraining
3 Order Act, the Firearm Dealer License Certification Act,
4 the Law Enforcement Agencies Data System (LEADS), the
5 Uniform Crime Reporting Act, the Criminal Identification
6 Act, the Uniform Conviction Information Act, and the Gun
7 Trafficking Information Act, or establish or maintain
8 record management systems necessary to conduct human
9 trafficking investigations or gun trafficking or other
10 stolen firearm investigations. This paragraph (21) applies
11 to contracts entered into on or after the effective date
12 of this amendatory Act of the 102nd General Assembly and
13 the renewal of contracts that are in effect on the
14 effective date of this amendatory Act of the 102nd General
15 Assembly.

16 Notwithstanding any other provision of law, for contracts
17 with an annual value of more than \$100,000 entered into on or
18 after October 1, 2017 under an exemption provided in any
19 paragraph of this subsection (b), except paragraph (1), (2),
20 or (5), each State agency shall post to the appropriate
21 procurement bulletin the name of the contractor, a description
22 of the supply or service provided, the total amount of the
23 contract, the term of the contract, and the exception to the
24 Code utilized. The chief procurement officer shall submit a
25 report to the Governor and General Assembly no later than
26 November 1 of each year that shall include, at a minimum, an

1 annual summary of the monthly information reported to the
2 chief procurement officer.

3 (c) This Code does not apply to the electric power
4 procurement process provided for under Section 1-75 of the
5 Illinois Power Agency Act and Section 16-111.5 of the Public
6 Utilities Act. This Code does not apply to the procurement of
7 technical and policy experts pursuant to Section 1-129 of the
8 Illinois Power Agency Act.

9 (d) Except for Section 20-160 and Article 50 of this Code,
10 and as expressly required by Section 9.1 of the Illinois
11 Lottery Law, the provisions of this Code do not apply to the
12 procurement process provided for under Section 9.1 of the
13 Illinois Lottery Law.

14 (e) This Code does not apply to the process used by the
15 Capital Development Board to retain a person or entity to
16 assist the Capital Development Board with its duties related
17 to the determination of costs of a clean coal SNG brownfield
18 facility, as defined by Section 1-10 of the Illinois Power
19 Agency Act, as required in subsection (h-3) of Section 9-220
20 of the Public Utilities Act, including calculating the range
21 of capital costs, the range of operating and maintenance
22 costs, or the sequestration costs or monitoring the
23 construction of clean coal SNG brownfield facility for the
24 full duration of construction.

25 (f) (Blank).

26 (g) (Blank).

1 (h) This Code does not apply to the process to procure or
2 contracts entered into in accordance with Sections 11-5.2 and
3 11-5.3 of the Illinois Public Aid Code.

4 (i) Each chief procurement officer may access records
5 necessary to review whether a contract, purchase, or other
6 expenditure is or is not subject to the provisions of this
7 Code, unless such records would be subject to attorney-client
8 privilege.

9 (j) This Code does not apply to the process used by the
10 Capital Development Board to retain an artist or work or works
11 of art as required in Section 14 of the Capital Development
12 Board Act.

13 (k) This Code does not apply to the process to procure
14 contracts, or contracts entered into, by the State Board of
15 Elections or the State Electoral Board for hearing officers
16 appointed pursuant to the Election Code.

17 (l) This Code does not apply to the processes used by the
18 Illinois Student Assistance Commission to procure supplies and
19 services paid for from the private funds of the Illinois
20 Prepaid Tuition Fund. As used in this subsection (l), "private
21 funds" means funds derived from deposits paid into the
22 Illinois Prepaid Tuition Trust Fund and the earnings thereon.

23 (m) This Code shall apply regardless of the source of
24 funds with which contracts are paid, including federal
25 assistance moneys. Except as specifically provided in this
26 Code, this Code shall not apply to procurement expenditures

1 necessary for the Department of Public Health to conduct the
2 Healthy Illinois Survey in accordance with Section 2310-431 of
3 the Department of Public Health Powers and Duties Law of the
4 Civil Administrative Code of Illinois.

5 (Source: P.A. 101-27, eff. 6-25-19; 101-81, eff. 7-12-19;
6 101-363, eff. 8-9-19; 102-175, eff. 7-29-21; 102-483, eff
7 1-1-22; 102-558, eff. 8-20-21; 102-600, eff. 8-27-21; 102-662,
8 eff. 9-15-21; 102-721, eff. 1-1-23; 102-813, eff. 5-13-22;
9 102-1116, eff. 1-10-23.)

10 Section 15. The Counties Code is amended by changing
11 Section 5-12020 as follows:

12 (55 ILCS 5/5-12020)

13 Sec. 5-12020. Commercial wind energy facilities and
14 commercial solar energy facilities.

15 (a) As used in this Section:

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

24 "Commercial wind energy facility" means a wind energy

1 conversion facility of equal or greater than 500 kilowatts in
2 total nameplate generating capacity. "Commercial wind energy
3 facility" includes a wind energy conversion facility seeking
4 an extension of a permit to construct granted by a county or
5 municipality before January 27, 2023 (the effective date of
6 Public Act 102-1123) ~~this amendatory Act of the 102nd General~~
7 ~~Assembly.~~

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

19 "Nonparticipating property" means real property that is
20 not a participating property.

21 "Nonparticipating residence" means a residence that is
22 located on nonparticipating property and that is existing and
23 occupied on the date that an application for a permit to
24 develop the commercial wind energy facility or the commercial
25 solar energy facility is filed with the county.

26 "Occupied community building" means any one or more of the

1 following buildings that is existing and occupied on the date
2 that the application for a permit to develop the commercial
3 wind energy facility or the commercial solar energy facility
4 is filed with the county: a school, place of worship, day care
5 facility, public library, or community center.

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

16 "Participating residence" means a residence that is
17 located on participating 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 "Protected lands" means real property that is:

22 (1) subject to a permanent conservation right
23 consistent with the Real Property Conservation Rights Act;
24 or

25 (2) registered or designated as a nature preserve,
26 buffer, or land and water reserve under the Illinois

1 Natural Areas Preservation Act.

2 "Supporting facilities" means the transmission lines,
3 substations, access roads, meteorological towers, storage
4 containers, and equipment associated with the generation and
5 storage of electricity by the commercial wind energy facility
6 or commercial solar energy facility.

7 "Wind tower" includes the wind turbine tower, nacelle, and
8 blades.

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

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

1 commercial solar energy facility, or modification of an
2 approved siting or special use permit, the county board of the
3 county in which the facility is to be sited or the zoning board
4 of appeals for the county shall hold at least one public
5 hearing. The public hearing shall be conducted in accordance
6 with the Open Meetings Act and shall be held not more than 60
7 ~~45~~ days after the filing of the application for the facility.
8 The county shall allow interested parties to a special use
9 permit an opportunity to present evidence and to cross-examine
10 witnesses at the hearing, but the county may impose reasonable
11 restrictions on the public hearing, including reasonable time
12 limitations on the presentation of evidence and the
13 cross-examination of witnesses. The county shall also allow
14 public comment at the public hearing in accordance with the
15 Open Meetings Act. The county shall make its siting and
16 permitting decisions not more than 30 days after the
17 conclusion of the public hearing. Notice of the hearing shall
18 be published in a newspaper of general circulation in the
19 county. A facility owner must enter into an agricultural
20 impact mitigation agreement with the Department of Agriculture
21 prior to the date of the required public hearing. A commercial
22 wind energy facility owner seeking an extension of a permit
23 granted by a county prior to July 24, 2015 (the effective date
24 of Public Act 99-132) must enter into an agricultural impact
25 mitigation agreement with the Department of Agriculture prior
26 to a decision by the county to grant the permit extension.

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

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

9 (e) A county may require:

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

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

1 height of the wind tower to the
2 nearest point on the outside
3 wall of the structure

4 Boundary Lines of None
5 Participating Property

6 Boundary Lines of 1.1 times the maximum blade tip
7 Nonparticipating Property height of the wind tower to the
8 nearest point on the property
9 line of the nonparticipating
10 property

11 Public Road Rights-of-Way 1.1 times the maximum blade tip
12 height of the wind tower
13 to the center point of the
14 public road right-of-way

15 Overhead Communication and 1.1 times the maximum blade tip
16 Electric Transmission height of the wind tower to the
17 and Distribution Facilities nearest edge of the property
18 (Not Including Overhead line, easement, or
19 Utility Service Lines to right-of-way ~~right of way~~
20 Individual Houses or containing the overhead line
21 Outbuildings)

1	Overhead Utility Service	None
2	Lines to Individual	
3	Houses or Outbuildings	
4	Fish and Wildlife Areas	2.1 times the maximum blade
5	and Illinois Nature	tip height of the wind tower
6	Preserve Commission	to the nearest point on the
7	Protected Lands	property line of the fish and
8		wildlife area or protected
9		land

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

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

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

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

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

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

21 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 ~~facility~~ that is more
6 restrictive than the sound limitations established by the
7 Illinois Pollution Control Board under 35 Ill. Adm. Code Parts
8 900, 901, and 910.

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

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

24 (h) A county may not adopt zoning regulations that
25 disallow, permanently or temporarily, commercial wind energy
26 facilities or commercial solar energy facilities from being

1 developed or operated in any district zoned to allow
2 agricultural or industrial uses.

3 (i) A county may not require permit application fees for a
4 commercial wind energy facility or commercial solar energy
5 facility that are unreasonable. All application fees imposed
6 by the county shall be consistent with fees for projects in the
7 county with similar capital value and cost.

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

22 (j-5) A commercial wind energy facility or a commercial
23 solar energy facility shall file a farmland drainage plan with
24 the county and impacted drainage districts outlining how
25 surface and subsurface drainage of farmland will be restored
26 during and following construction or deconstruction of the

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

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

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

22 (m) A county may set blade tip height limitations for wind
23 towers in commercial wind energy facilities but may not set a
24 blade tip height limitation that is more restrictive than the
25 height allowed under a Determination of No Hazard to Air
26 Navigation by the Federal Aviation Administration under 14 CFR

1 Part 77.

2 (n) A county may require that a commercial wind energy
3 facility owner or commercial solar energy facility owner
4 provide:

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

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

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

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

23 (1) demonstrate avoidance of protected lands as
24 identified by the Illinois Department of Natural Resources
25 and the Illinois Nature Preserve Commission; or

26 (2) consider the recommendations of the Illinois

1 Department of Natural Resources for setbacks from
2 protected lands, including areas identified by the
3 Illinois Nature Preserve Commission.

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

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

25 No later than 90 days after January 27, 2023 (the
26 effective date of Public Act 102-1123) ~~this amendatory Act of~~

1 ~~the 102nd General Assembly~~, the Illinois Department of Natural
2 Resources shall develop guidelines for vegetation management
3 plans that may be required under this subsection for
4 commercial solar energy facilities. The guidelines must
5 include guidance for short-term and long-term property
6 management practices that provide and maintain native and
7 non-invasive naturalized perennial vegetation to protect the
8 health and well-being of pollinators.

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

1 a result of construction-related activities.

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

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

1 as soon as reasonably practicable.

2 (t) Notwithstanding any other provision of law, a facility
3 owner with siting approval from a county to construct a
4 commercial wind energy facility or a commercial solar energy
5 facility is authorized to cross or impact a drainage system,
6 including, but not limited to, drainage tiles, open drainage
7 ditches ~~districts~~, culverts, and water gathering vaults, owned
8 or under the control of a drainage district under the Illinois
9 Drainage Code without obtaining prior agreement or approval
10 from the drainage district in accordance with the farmland
11 drainage plan required by subsection (j-5), ~~except that the~~
12 ~~facility owner shall repair or pay for the repair of all damage~~
13 ~~to the drainage system caused by the construction of the~~
14 ~~commercial wind energy facility or the commercial solar energy~~
15 ~~facility within a reasonable time after construction of the~~
16 ~~commercial wind energy facility or the commercial solar energy~~
17 ~~facility is complete.~~

18 (u) The amendments to this Section adopted in Public Act
19 102-1123 ~~this amendatory Act of the 102nd General Assembly~~ do
20 not apply to (1) an application for siting approval or for a
21 special use permit for a commercial wind energy facility or
22 commercial solar energy facility if the application was
23 submitted to a unit of local government before January 27,
24 2023 (the effective date of Public Act 102-1123) ~~this~~
25 ~~amendatory Act of the 102nd General Assembly~~ or (2) a
26 commercial wind energy facility or a commercial solar energy

1 facility if the facility owner has submitted an agricultural
2 impact mitigation agreement to the Department of Agriculture
3 before January 27, 2023 (the effective date of Public Act
4 102-1123) ~~this amendatory Act of the 102nd General Assembly.~~

5 (Source: P.A. 101-4, eff. 4-19-19; 102-1123, eff. 1-27-23;
6 revised 4-5-23.)

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