



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4651

by Rep. Charles Meier

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-12020
65 ILCS 5/11-13-26
505 ILCS 147/1
505 ILCS 147/5
505 ILCS 147/10
505 ILCS 147/15

Amends the Wind Energy Facilities Agricultural Impact Mitigation Act. Provides that the Act may be cited as the Renewable Energy Facilities Agricultural Impact Mitigation Act. Changes references in the Act from "commercial wind energy facility" to "commercial renewable energy facility". Provides that "commercial renewable energy facility" means a commercial wind energy facility or commercial solar energy facility. Defines "commercial solar energy facility". Provides that for commercial renewable energy facility owners of a commercial solar energy facility, the agricultural impact mitigation agreement shall be entered into prior to the commercial renewable energy facility owner making contact with a landowner seeking an underlying agreement for the development of a commercial solar energy facility. Makes conforming changes in the Counties Code and the Illinois Municipal Code. Effective immediately.

LRB100 17169 SLF 32324 b

1 AN ACT concerning agriculture.

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 Section
5 5-12020 as follows:

6 (55 ILCS 5/5-12020)

7 Sec. 5-12020. Wind farms. Notwithstanding any other
8 provision of law, a county may establish standards for wind
9 farms and electric-generating wind devices. The standards may
10 include, without limitation, the height of the devices and the
11 number of devices that may be located within a geographic area.
12 A county may also regulate the siting of wind farms and
13 electric-generating wind devices in unincorporated areas of
14 the county outside of the zoning jurisdiction of a municipality
15 and the 1.5 mile radius surrounding the zoning jurisdiction of
16 a municipality. There shall be at least one public hearing not
17 more than 30 days prior to a siting decision by the county
18 board. Notice of the hearing shall be published in a newspaper
19 of general circulation in the county. A commercial renewable
20 ~~wind~~ energy facility owner, as defined in the Renewable Wind
21 Energy Facilities Agricultural Impact Mitigation Act, must
22 enter into an agricultural impact mitigation agreement with the
23 Department of Agriculture prior to the date of the required

1 public hearing. A commercial renewable ~~wind~~ energy facility
2 owner seeking an extension of a permit granted by a county
3 prior to July 24, 2015 (the effective date of Public Act
4 99-132) must enter into an agricultural impact mitigation
5 agreement with the Department of Agriculture prior to a
6 decision by the county to grant the permit extension. Counties
7 may allow test wind towers to be sited without formal approval
8 by the county board. Any provision of a county zoning ordinance
9 pertaining to wind farms that is in effect before August 16,
10 2007 (the effective date of Public Act 95-203) may continue in
11 effect notwithstanding any requirements of this Section.

12 A county may not require a wind tower or other renewable
13 energy system that is used exclusively by an end user to be
14 setback more than 1.1 times the height of the renewable energy
15 system from the end user's property line.

16 (Source: P.A. 99-123, eff. 1-1-16; 99-132, eff. 7-24-15;
17 99-642, eff. 7-28-16.)

18 Section 10. The Illinois Municipal Code is amended by
19 changing Section 11-13-26 as follows:

20 (65 ILCS 5/11-13-26)

21 Sec. 11-13-26. Wind farms. Notwithstanding any other
22 provision of law:

23 (a) A municipality may regulate wind farms and
24 electric-generating wind devices within its zoning

1 jurisdiction and within the 1.5 mile radius surrounding its
2 zoning jurisdiction. There shall be at least one public
3 hearing not more than 30 days prior to a siting decision by
4 the corporate authorities of a municipality. Notice of the
5 hearing shall be published in a newspaper of general
6 circulation in the municipality. A commercial renewable
7 ~~wind~~ energy facility owner, as defined in the Renewable
8 ~~Wind~~ Energy Facilities Agricultural Impact Mitigation Act,
9 must enter into an agricultural impact mitigation
10 agreement with the Department of Agriculture prior to the
11 date of the required public hearing. A commercial renewable
12 ~~wind~~ energy facility owner seeking an extension of a permit
13 granted by a municipality prior to July 24, 2015 (the
14 effective date of Public Act 99-132) must enter into an
15 agricultural impact mitigation agreement with the
16 Department of Agriculture prior to a decision by the
17 municipality to grant the permit extension. A municipality
18 may allow test wind towers to be sited without formal
19 approval by the corporate authorities of the municipality.
20 Test wind towers must be dismantled within 3 years of
21 installation. For the purposes of this Section, "test wind
22 towers" are wind towers that are designed solely to collect
23 wind generation data.

24 (b) A municipality may not require a wind tower or
25 other renewable energy system that is used exclusively by
26 an end user to be setback more than 1.1 times the height of

1 the renewable energy system from the end user's property
2 line. A setback requirement imposed by a municipality on a
3 renewable energy system may not be more restrictive than as
4 provided under this subsection. This subsection is a
5 limitation of home rule powers and functions under
6 subsection (i) of Section 6 of Article VII of the Illinois
7 Constitution on the concurrent exercise by home rule units
8 of powers and functions exercised by the State.

9 (Source: P.A. 99-123, eff. 1-1-16; 99-132, eff. 7-24-15;
10 99-642, eff. 7-28-16.)

11 Section 15. The Wind Energy Facilities Agricultural Impact
12 Mitigation Act is amended by changing Sections 1, 5, 10, and 15
13 as follows:

14 (505 ILCS 147/1)

15 Sec. 1. Short title. This Act may be cited as the Renewable
16 ~~Wind~~ Energy Facilities Agricultural Impact Mitigation Act.

17 (Source: P.A. 99-132, eff. 7-24-15.)

18 (505 ILCS 147/5)

19 Sec. 5. Purpose. The primary purpose of this Act is to
20 promote the State's welfare by protecting landowners during the
21 construction and deconstruction of commercial renewable ~~wind~~
22 energy facilities.

23 (Source: P.A. 99-132, eff. 7-24-15.)

1 (505 ILCS 147/10)

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

3 "Abandonment" means when deconstruction has not been
4 completed within 18 months after the commercial renewable ~~wind~~
5 energy facility reaches the end of its useful life. For
6 purposes of this definition, a commercial renewable ~~wind~~ energy
7 facility will be presumed to have reached the end of its useful
8 life if (1) no electricity is generated for a continuous period
9 of 12 months and (2) the commercial renewable ~~wind~~ energy
10 facility owner fails, for a period of 6 consecutive months, to
11 pay the landowner amounts owed in accordance with the
12 underlying agreement.

13 "Agricultural impact mitigation agreement" means an
14 agreement between the commercial renewable ~~wind~~ energy
15 facility owner and the Department of Agriculture described in
16 Section 15 of this Act.

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

1 completed application has commenced on the date provided in the
2 public hearing notice, which must be before the effective date
3 of this Act; (2) for which a permit to construct has been
4 issued before the effective date of this Act; or (3) that was
5 constructed before the effective date of this Act.

6 "Commercial renewable ~~wind~~ energy facility owner" means a
7 private commercial enterprise that owns or operates a
8 commercial renewable ~~wind~~ energy facility.

9 "Commercial renewable energy facility" means a commercial
10 wind energy facility or commercial solar energy facility as
11 defined in this Act.

12 "Commercial solar energy facility" means a solar energy
13 conservation facility equal or greater than 500 kilowatts in
14 total nameplate generating capacity, including a solar energy
15 conversion facility seeking an extension of a permit to
16 construct granted by a county or municipality before the
17 effective date of this amendatory Act of the 100th General
18 Assembly. "Commercial solar energy facility" does not include a
19 solar energy conservation facility: (1) for which a permit to
20 construct has been issued before the effective date of this
21 amendatory Act of the 100th General Assembly; or (2) that was
22 constructed before the effective date of this amendatory Act of
23 this 100th General Assembly.

24 "Construction" means the installation, preparation for
25 installation, or repair of a commercial renewable ~~wind~~ energy
26 facility.

1 "County" means the county where the commercial renewable
2 ~~wind~~ energy facility is located.

3 "Deconstruction" means the removal of a commercial
4 renewable ~~wind~~ energy facility from the property of a landowner
5 and the restoration of that property as provided in the
6 agricultural impact mitigation agreement.

7 "Department" means the Department of Agriculture.

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

11 "Underlying agreement" means the written agreement with a
12 landowner, including, but not limited to, an easement, option,
13 lease, or license, under the terms of which another person has
14 constructed, constructs, or intends to construct a commercial
15 renewable ~~wind~~ energy facility on the property of the
16 landowner.

17 (Source: P.A. 99-132, eff. 7-24-15.)

18 (505 ILCS 147/15)

19 Sec. 15. Agricultural impact mitigation agreement.

20 (a) A commercial renewable ~~wind~~ energy facility owner of a
21 commercial renewable ~~wind~~ energy facility located on landowner
22 property shall enter into an agricultural impact mitigation
23 agreement with the Department outlining construction and
24 deconstruction standards and policies designed to preserve the
25 integrity of any agricultural land that is impacted by

1 commercial renewable ~~wind~~ energy facility construction and
2 deconstruction.

3 (b) The agricultural impact mitigation agreement shall
4 include, but is not limited to, such items as restoration of
5 agricultural land affected by construction, deconstruction
6 (including upon abandonment), construction staging, and
7 storage areas; support structures; aboveground facilities; guy
8 wires and anchors; underground cabling depth; topsoil
9 replacement; protection and repair of agricultural drainage
10 tiles; rock removal; repair of compaction and rutting; land
11 leveling; prevention of soil erosion; repair of damaged soil
12 conservation practices; compensation for damages to private
13 property; clearing of trees and brush; interference with
14 irrigation systems; access roads; weed control; pumping of
15 water from open excavations; advance notice of access to
16 private property; indemnification of landowners; and
17 deconstruction plans and financial assurance for
18 deconstruction (including upon abandonment).

19 (c) For commercial renewable ~~wind~~ energy facility owners
20 seeking a permit from a county or municipality for the
21 construction of a commercial wind energy facility, the
22 agricultural impact mitigation agreement shall be entered into
23 prior to the public hearing required prior to a siting decision
24 of a county or municipality regarding the commercial wind
25 energy facility. The agricultural impact mitigation agreement
26 is binding on any subsequent commercial renewable ~~wind~~ energy

1 facility owner that takes ownership of the commercial wind
2 energy facility that is the subject of the agreement. For
3 commercial renewable energy facility owners of a commercial
4 solar energy facility, the agricultural impact mitigation
5 agreement shall be entered into prior to the commercial
6 renewable energy facility owner making contact with a landowner
7 seeking an underlying agreement for the development of a
8 commercial solar energy facility.

9 (d) If a commercial renewable ~~wind~~ energy facility owner
10 seeks an extension of a permit granted by a county or
11 municipality for the construction of a commercial wind energy
12 facility prior to the effective date of this Act, the
13 agricultural impact mitigation agreement shall be entered into
14 prior to a decision by the county or municipality to grant the
15 permit extension.

16 (e) The Department shall adopt rules that are necessary and
17 appropriate for the implementation and administration of
18 agricultural impact mitigation agreements as required under
19 this Act.

20 (Source: P.A. 99-132, eff. 7-24-15.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.