



Rep. Charles Meier

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LRB100 17169 SLF 39054 a

1 AMENDMENT TO HOUSE BILL 4651

2 AMENDMENT NO. _____. Amend House Bill 4651 by replacing
3 everything after the enacting clause with the following:

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

6 (55 ILCS 5/5-12020)

7 Sec. 5-12020. 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

1 more than 30 days prior to a siting decision by the county
2 board. Notice of the hearing shall be published in a newspaper
3 of general circulation in the county. A commercial wind energy
4 facility owner, as defined in the Renewable ~~Wind~~ Energy
5 Facilities Agricultural Impact Mitigation Act, must enter into
6 an agricultural impact mitigation agreement with the
7 Department of Agriculture prior to the date of the required
8 public hearing. A commercial wind energy facility owner seeking
9 an extension of a permit granted by a county prior to July 24,
10 2015 (the effective date of Public Act 99-132) must enter into
11 an agricultural impact mitigation agreement with the
12 Department of Agriculture prior to a decision by the county to
13 grant the permit extension. Counties may allow test wind towers
14 to be sited without formal approval by the county board. Any
15 provision of a county zoning ordinance pertaining to wind farms
16 that is in effect before August 16, 2007 (the effective date of
17 Public Act 95-203) may continue in effect notwithstanding any
18 requirements of this Section.

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

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

25 Section 10. The Illinois Municipal Code is amended by

1 changing Section 11-13-26 as follows:

2 (65 ILCS 5/11-13-26)

3 Sec. 11-13-26. Wind farms. Notwithstanding any other
4 provision of law:

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

1 years of installation. For the purposes of this Section,
2 "test wind towers" are wind towers that are designed solely
3 to collect wind generation data.

4 (b) A municipality may not require a wind tower or
5 other renewable energy system that is used exclusively by
6 an end user to be setback more than 1.1 times the height of
7 the renewable energy system from the end user's property
8 line. A setback requirement imposed by a municipality on a
9 renewable energy system may not be more restrictive than as
10 provided under this subsection. This subsection is a
11 limitation of home rule powers and functions under
12 subsection (i) of Section 6 of Article VII of the Illinois
13 Constitution on the concurrent exercise by home rule units
14 of powers and functions exercised by the State.

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

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

20 (505 ILCS 147/1)

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

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

1 (505 ILCS 147/5)

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

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

7 (505 ILCS 147/10)

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

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

19 "Abandonment of a commercial solar energy facility" means
20 when deconstruction has not been completed within 6 months
21 after the commercial solar energy facility reaches the end of
22 its useful life. For purposes of this definition, a commercial
23 solar energy facility shall be presumed to have reached the end
24 of its useful life if the commercial solar energy facility
25 owner fails, for a period of 6 consecutive months, to pay the

1 landowner amounts owed in accordance with the underlying
2 agreement.

3 "Agricultural impact mitigation agreement" means an
4 agreement between the commercial wind energy facility owner or
5 the commercial solar energy facility owner and the Department
6 of Agriculture described in Section 15 of this Act.

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

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

22 "Commercial solar energy facility owner" means a private
23 commercial enterprise that owns or operates a commercial solar
24 energy facility. A commercial solar energy facility owner is
25 not nor shall it be deemed to be a public utility as defined in
26 the Public Utilities Act.

1 "Commercial wind energy facility" means a wind energy
2 conversion facility of equal or greater than 500 kilowatts in
3 total nameplate generating capacity. "Commercial wind energy
4 facility" includes a wind energy conversion facility seeking an
5 extension of a permit to construct granted by a county or
6 municipality before the effective date of this Act. "Commercial
7 wind energy facility" does not include a wind energy conversion
8 facility: (1) that has submitted a complete permit application
9 to a county or municipality and for which the hearing on the
10 completed application has commenced on the date provided in the
11 public hearing notice, which must be before the effective date
12 of this Act; (2) for which a permit to construct has been
13 issued before the effective date of this Act; or (3) that was
14 constructed before the effective date of this Act.

15 "Commercial wind energy facility owner" means a private
16 commercial enterprise that owns or operates a commercial wind
17 energy facility. A commercial wind energy facility owner is not
18 nor shall it be deemed to be a public utility as defined in the
19 Public Utilities Act.

20 "Construction" means the installation, preparation for
21 installation, or repair of a commercial renewable ~~wind~~ energy
22 facility.

23 "County" means the county where the commercial renewable
24 ~~wind~~ energy facility is located.

25 "Deconstruction" means the removal of a commercial
26 renewable ~~wind~~ energy facility from the property of a landowner

1 and the restoration of that property as provided in the
2 agricultural impact mitigation agreement.

3 "Department" means the Department of Agriculture.

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

7 "Underlying agreement" means the written agreement with a
8 landowner, including, but not limited to, an easement, option,
9 lease, or license, under the terms of which another person has
10 constructed, constructs, or intends to construct a commercial
11 wind energy facility or commercial solar energy facility on the
12 property of the landowner.

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

14 (505 ILCS 147/15)

15 Sec. 15. Agricultural impact mitigation agreement.

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

24 (b) The agricultural impact mitigation agreement for a
25 commercial wind energy facility shall include, but is not

1 limited to, such items as restoration of agricultural land
2 affected by construction, deconstruction (including upon
3 abandonment of a commercial wind energy facility),
4 construction staging, and storage areas; support structures;
5 aboveground facilities; guy wires and anchors; underground
6 cabling depth; topsoil replacement; protection and repair of
7 agricultural drainage tiles; rock removal; repair of
8 compaction and rutting; land leveling; prevention of soil
9 erosion; repair of damaged soil conservation practices;
10 compensation for damages to private property; clearing of trees
11 and brush; interference with irrigation systems; access roads;
12 weed control; pumping of water from open excavations; advance
13 notice of access to private property; indemnification of
14 landowners; and deconstruction plans and financial assurance
15 for deconstruction (including upon abandonment of a commercial
16 wind energy facility).

17 (b-5) The agricultural impact mitigation agreement for a
18 commercial solar energy facility shall include, but is not
19 limited to, such items as restoration of agricultural land
20 affected by construction, deconstruction (including upon
21 abandonment of a commercial solar energy facility); support
22 structures; aboveground facilities; guy wires and anchors;
23 underground cabling depth; topsoil removal and replacement;
24 rerouting and permanent repair of agricultural drainage tiles;
25 rock removal; repair of compaction and rutting; construction
26 during wet weather; land leveling; prevention of soil erosion;

1 repair of damaged soil conservation practices; compensation
2 for damages to private property; clearing of trees and brush;
3 interference with irrigation systems; access roads; weed
4 control; advance notice of access to private property;
5 indemnification of landowners; and deconstruction plans and
6 financial assurance for deconstruction (including upon
7 abandonment of a commercial wind energy facility). The
8 construction and deconstruction of any commercial solar energy
9 facility shall be in conformance with the agricultural impact
10 mitigation agreement. The commercial solar energy facility
11 owner shall enter into one agricultural impact mitigation
12 agreement for each county in which the commercial solar energy
13 facility owner will construct a commercial solar energy
14 facility that shall apply to any and all commercial solar
15 energy facilities constructed and operated in that county by
16 the owner.

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

1 (c-5) For commercial solar energy facility owners, the
2 agricultural impact mitigation agreement shall be entered into
3 prior to the commercial solar energy facility owner executing
4 an underlying agreement with any landowner for the development
5 of a commercial solar energy facility. The commercial solar
6 energy facility owner shall provide to the landowner an
7 executed copy of the agricultural impact mitigation agreement
8 prior to executing the underlying agreement. If a solar energy
9 facility owner has executed an underlying agreement with a
10 landowner prior to the effective date of this amendatory Act of
11 the 100th General Assembly but has not been issued a permit to
12 construct by a county prior the effective date of this
13 amendatory Act of the 100th General Assembly, the parties shall
14 enter into the agricultural impact mitigation agreement within
15 90 days after the effective date of this amendatory Act of the
16 100th General Assembly. The agricultural impact mitigation
17 agreement is binding on any subsequent commercial solar energy
18 facility owner that takes ownership of the commercial solar
19 energy facility that is the subject of the agreement.

20 (d) If a commercial renewable ~~wind~~ energy facility owner
21 seeks an extension of a permit granted by a county or
22 municipality for the construction of a commercial wind energy
23 facility prior to the effective date of this Act, the
24 agricultural impact mitigation agreement shall be entered into
25 prior to a decision by the county or municipality to grant the
26 permit extension.

1 (e) The Department shall adopt rules that are necessary and
2 appropriate for the implementation and administration of
3 agricultural impact mitigation agreements as required under
4 this Act.

5 (f) The Department shall make available on its website a
6 standard agricultural impact mitigation agreement applicable
7 to all commercial solar energy facilities within 60 days after
8 the effective date of this amendatory Act of the 100th General
9 Assembly.

10 (g) Nothing in this Act shall be construed to apply to or
11 otherwise impair an underlying agreement for a commercial solar
12 energy facility entered into prior to the effective date of
13 this amendatory Act of the 100th General Assembly.

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

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.".