



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB2591

Introduced 2/7/2018, by Sen. Scott M. Bennett

#### 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 17172 SLF 32327 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.