



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB0198

Introduced 1/31/2023, by Sen. Craig Wilcox - Tom Bennett

SYNOPSIS AS INTRODUCED:

60 ILCS 1/110-11 new
505 ILCS 147/15

Amends the Township Code. Provides that a township may regulate commercial wind energy facilities, commercial solar energy facilities, or both. Provides that a township may use any of its zoning powers in the regulation of commercial wind energy facilities and commercial solar energy facilities and may prohibit commercial wind energy facilities, commercial solar energy facilities, or both. Provides that a township's regulations over commercial wind energy facilities and commercial solar energy facilities shall prevail over county regulations but not over municipal regulations. Defines terms. Amends the Renewable Energy Facilities Agricultural Impact Mitigation Act making conforming changes. Effective immediate.

LRB103 25527 AWJ 51876 b

1 AN ACT concerning local government.

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

4 Section 5. The Township Code is amended by adding Section
5 110-11 as follows:

6 (60 ILCS 1/110-11 new)

7 Sec. 110-11. Commercial solar and wind energy facilities.

8 (a) As used in this Section:

9 "Commercial solar energy facility" means a "commercial
10 solar energy system" as defined in Section 10-720 of the
11 Property Tax Code. "Commercial solar energy facility" does not
12 mean a utility-scale solar energy facility being constructed
13 at a site that was eligible to participate in a procurement
14 event conducted by the Illinois Power Agency pursuant to
15 subsection (c-5) of Section 1-75 of the Illinois Power Agency
16 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.

20 (b) Notwithstanding any other provision of law, including
21 Section 5-12020 of the Counties Code, a township may regulate
22 commercial wind energy facilities, commercial solar energy
23 facilities, or both. A township's power to regulate commercial

1 wind energy facilities and commercial solar energy facilities
2 includes all powers granted under Section 110-10 and the power
3 to prohibit commercial wind energy facilities, commercial
4 solar energy facilities, or both.

5 (c) To the extent that a township's regulation of
6 commercial wind energy facilities or commercial solar energy
7 facilities conflicts with a county's regulation of commercial
8 wind energy facilities or commercial solar energy facilities,
9 the township's regulations prevail. To the extent that a
10 township's regulation of commercial wind energy facilities or
11 commercial solar energy facilities conflict with a
12 municipality's regulation of commercial wind energy facilities
13 or commercial solar energy facilities, the municipality's
14 regulations prevail, including in the 1.5-mile radius
15 surrounding the municipality's zoning jurisdiction as provided
16 in Section 11-13-26 of the Illinois Municipal Code.

17 Section 10. The Renewable Energy Facilities Agricultural
18 Impact Mitigation Act is amended by changing Section 15 as
19 follows:

20 (505 ILCS 147/15)

21 Sec. 15. Agricultural impact mitigation agreement.

22 (a) A commercial renewable energy facility owner of a
23 commercial wind energy facility or a commercial solar energy
24 facility that is located on landowner property shall enter

1 into an agricultural impact mitigation agreement with the
2 Department outlining construction and deconstruction standards
3 and policies designed to preserve the integrity of any
4 agricultural land that is impacted by commercial renewable
5 energy facility construction and deconstruction. The
6 construction and deconstruction of any commercial solar energy
7 facility shall be in conformance with the Department's
8 standard agricultural impact mitigation agreement referenced
9 in subsection (f) of this Section. Except as provided in
10 subsection (a-5) of this Section, the terms and conditions of
11 the Department's standard agricultural impact mitigation
12 agreement are subject to and may be modified by an underlying
13 agreement between the landowner and the commercial solar
14 energy facility owner.

15 (a-5) Prior to the commencement of construction, a
16 commercial solar energy facility owner shall submit to the
17 county or township in which the commercial solar facility is
18 to be located a deconstruction plan. A commercial solar energy
19 facility owner shall provide the county or township with an
20 appropriate financial assurance mechanism consistent with the
21 Department's standard agricultural impact mitigation agreement
22 for and to assure deconstruction in the event of an
23 abandonment of a commercial solar energy facility.

24 (b) The agricultural impact mitigation agreement for a
25 commercial wind energy facility shall include, but is not
26 limited to, such items as restoration of agricultural land

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

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

1 for damages to private property; clearing of trees and brush;
2 access roads; weed control; advance notice of access to
3 private property; indemnification of landowners; and
4 deconstruction plans and financial assurance for
5 deconstruction (including upon abandonment of a commercial
6 solar energy facility). The commercial solar energy facility
7 owner shall enter into one agricultural impact mitigation
8 agreement for each commercial solar energy facility.

9 (c) For commercial wind energy facility owners seeking a
10 permit from a county, township, or municipality for the
11 construction of a commercial wind energy facility, the
12 agricultural impact mitigation agreement shall be entered into
13 prior to the public hearing required prior to a siting
14 decision of a county, township, or municipality regarding the
15 commercial wind energy facility. The agricultural impact
16 mitigation agreement is binding on any subsequent commercial
17 wind energy facility owner that takes ownership of the
18 commercial wind energy facility that is the subject of the
19 agreement.

20 (c-5) A commercial solar energy facility owner shall, not
21 less than 45 days prior to commencement of actual
22 construction, submit to the Department a standard agricultural
23 impact mitigation agreement as referenced in subsection (f) of
24 this Section signed by the commercial solar energy facility
25 owner and including all information required by the
26 Department. The commercial solar energy facility owner shall

1 provide either a copy of that submitted agreement or a copy of
2 the fully executed project-specific agricultural impact
3 mitigation agreement to the landowner not less than 30 days
4 prior to the commencement of construction. The agricultural
5 impact mitigation agreement is binding on any subsequent
6 commercial solar energy facility owner that takes ownership of
7 the commercial solar energy facility that is the subject of
8 the agreement.

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

16 (e) The Department may 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 (f) The Department shall make available on its website a
21 standard agricultural impact mitigation agreement applicable
22 to all commercial solar energy facilities within 60 days after
23 the effective date of this amendatory Act of the 100th General
24 Assembly.

25 (g) Nothing in this amendatory Act of the 100th General
26 Assembly and nothing in an agricultural impact mitigation

1 agreement shall be construed to apply to or otherwise impair
2 an underlying agreement for a commercial solar energy facility
3 entered into prior to the effective date of this amendatory
4 Act of the 100th General Assembly.

5 (Source: P.A. 99-132, eff. 7-24-15; 100-598, eff. 6-29-18.)

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