

AN ACT concerning regulation.

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

Section 1. Short title. This Act may be cited as the Wind Energy Facilities Agricultural Impact Mitigation Act.

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

Section 10. Definitions. As used in this Act:

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

"Agricultural impact mitigation agreement" means an agreement between the commercial wind energy facility owner and the Department of Agriculture described in Section 15 of this

Act.

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

"Commercial wind energy facility owner" means a private commercial enterprise that owns or operates a commercial wind energy facility.

"Construction" means the installation, preparation for installation, or repair of a commercial wind energy facility.

"County" means the county where the commercial wind energy facility is located.

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

"Department" means the Department of Agriculture.

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

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

Section 15. Agricultural impact mitigation agreement.

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

(b) The agricultural impact mitigation agreement shall include, but is not limited to, such items as restoration of agricultural land affected by construction, deconstruction (including upon abandonment), construction staging, and storage areas; support structures; aboveground facilities; guy wires and anchors; underground cabling depth; topsoil replacement; protection and repair of agricultural drainage tiles; rock removal; repair of compaction and rutting; land

leveling; prevention of soil erosion; repair of damaged soil conservation practices; compensation for damages to private property; clearing of trees and brush; interference with irrigation systems; access roads; weed control; pumping of water from open excavations; advance notice of access to private property; indemnification of landowners; and deconstruction plans and financial assurance for deconstruction (including upon abandonment).

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

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

(e) The Department shall adopt rules that are necessary and appropriate for the implementation and administration of

agricultural impact mitigation agreements as required under this Act.

Section 90. The Counties Code is amended by changing Section 5-12020 as follows:

(55 ILCS 5/5-12020)

Sec. 5-12020. Wind farms. A county may establish standards for wind farms and electric-generating wind devices. The standards may include, without limitation, the height of the devices and the number of devices that may be located within a geographic area. A county may also regulate the siting of wind farms and electric-generating wind devices in unincorporated areas of the county outside of the zoning jurisdiction of a municipality and the 1.5 mile radius surrounding the zoning jurisdiction of a municipality. There shall be at least one public hearing not more than 30 days prior to a siting decision by the county board. Notice of the hearing shall be published in a newspaper of general circulation in the county. A commercial wind energy facility owner, as defined in the Wind Energy Facilities Agricultural Impact Mitigation Act, must enter into an agricultural impact mitigation agreement with the Department of Agriculture prior to the date of the required public hearing. A commercial wind energy facility owner seeking an extension of a permit granted by a county prior to the effective date of this amendatory Act of the 99th General

Assembly must enter into an agricultural impact mitigation agreement with the Department of Agriculture prior to a decision by the county to grant the permit extension. Counties may allow test wind towers to be sited without formal approval by the county board. Any provision of a county zoning ordinance pertaining to wind farms that is in effect before the effective date of this amendatory Act of the 95th General Assembly may continue in effect notwithstanding any requirements of this Section.

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

(Source: P.A. 95-203, eff. 8-16-07; 96-306, eff. 1-1-10; 96-566, eff. 8-18-09; 96-1000, eff. 7-2-10.)

Section 95. The Illinois Municipal Code is amended by changing Section 11-13-26 as follows:

(65 ILCS 5/11-13-26)

Sec. 11-13-26. Wind farms.

(a) A municipality may regulate wind farms and electric-generating wind devices within its zoning jurisdiction and within the 1.5 mile radius surrounding its zoning jurisdiction. There shall be at least one public hearing not more than 30 days prior to a siting decision by the

corporate authorities of a municipality. Notice of the hearing shall be published in a newspaper of general circulation in the municipality. A commercial wind energy facility owner, as defined in the Wind Energy Facilities Agricultural Impact Mitigation Act, must enter into an agricultural impact mitigation agreement with the Department of Agriculture prior to the date of the required public hearing. A commercial wind energy facility owner seeking an extension of a permit granted by a municipality prior to the effective date of this amendatory Act of the 99th General Assembly must enter into an agricultural impact mitigation agreement with the Department of Agriculture prior to a decision by the municipality to grant the permit extension. A municipality may allow test wind towers to be sited without formal approval by the corporate authorities of the municipality. Test wind towers must be dismantled within 3 years of installation. For the purposes of this Section, "test wind towers" are wind towers that are designed solely to collect wind generation data.

(b) A municipality may not require a wind tower or other renewable energy system that is used exclusively by an end user to be setback more than 1.1 times the height of the renewable energy system from the end user's property line. A setback requirement imposed by a municipality on a renewable energy system may not be more restrictive than as provided under this subsection. This subsection is a limitation of home rule powers and functions under subsection (i) of Section 6 of Article VII

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of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

(Source: P.A. 95-203, eff. 8-16-07; 96-306, eff. 1-1-10.)

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