

# HB1420



## 104TH GENERAL ASSEMBLY

### State of Illinois

2025 and 2026

HB1420

Introduced 1/28/2025, by Rep. Dave Vella

#### SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-12020

Amends the Counties Code. Provides that a county may consider public comment concerning commercial wind energy facilities and commercial solar energy facilities.

LRB104 06410 RTM 16446 b

A BILL FOR

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

6 (55 ILCS 5/5-12020)

7 Sec. 5-12020. Commercial wind energy facilities and  
8 commercial solar energy facilities.

9 (a) As used in this Section:

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

18 "Commercial wind energy facility" means a wind energy  
19 conversion facility of equal or greater than 500 kilowatts in  
20 total nameplate generating capacity. "Commercial wind energy  
21 facility" includes a wind energy conversion facility seeking  
22 an extension of a permit to construct granted by a county or  
23 municipality before January 27, 2023 (the effective date of

1 Public Act 102-1123).

2 "Facility owner" means (i) a person with a direct  
3 ownership interest in a commercial wind energy facility or a  
4 commercial solar energy facility, or both, regardless of  
5 whether the person is involved in acquiring the necessary  
6 rights, permits, and approvals or otherwise planning for the  
7 construction and operation of the facility, and (ii) at the  
8 time the facility is being developed, a person who is acting as  
9 a developer of the facility by acquiring the necessary rights,  
10 permits, and approvals or by planning for the construction and  
11 operation of the facility, regardless of whether the person  
12 will own or operate the facility.

13 "Nonparticipating property" means real property that is  
14 not a participating property.

15 "Nonparticipating residence" means a residence that is  
16 located on nonparticipating property and that is existing and  
17 occupied on the date that an application for a permit to  
18 develop the commercial wind energy facility or the commercial  
19 solar energy facility is filed with the county.

20 "Occupied community building" means any one or more of the  
21 following buildings that is existing and occupied on the date  
22 that the application for a permit to develop the commercial  
23 wind energy facility or the commercial solar energy facility  
24 is filed with the county: a school, place of worship, day care  
25 facility, public library, or community center.

26 "Participating property" means real property that is the

1 subject of a written agreement between a facility owner and  
2 the owner of the real property that provides the facility  
3 owner an easement, option, lease, or license to use the real  
4 property for the purpose of constructing a commercial wind  
5 energy facility, a commercial solar energy facility, or  
6 supporting facilities. "Participating property" also includes  
7 real property that is owned by a facility owner for the purpose  
8 of constructing a commercial wind energy facility, a  
9 commercial solar energy facility, or supporting facilities.

10 "Participating residence" means a residence that is  
11 located on participating property and that is existing and  
12 occupied on the date that an application for a permit to  
13 develop the commercial wind energy facility or the commercial  
14 solar energy facility is filed with the county.

15 "Protected lands" means real property that is:

16 (1) subject to a permanent conservation right  
17 consistent with the Real Property Conservation Rights Act;  
18 or

19 (2) registered or designated as a nature preserve,  
20 buffer, or land and water reserve under the Illinois  
21 Natural Areas Preservation Act.

22 "Supporting facilities" means the transmission lines,  
23 substations, access roads, meteorological towers, storage  
24 containers, and equipment associated with the generation and  
25 storage of electricity by the commercial wind energy facility  
26 or commercial solar energy facility.

1 "Wind tower" includes the wind turbine tower, nacelle, and  
2 blades.

3 (b) Notwithstanding any other provision of law or whether  
4 the county has formed a zoning commission and adopted formal  
5 zoning under Section 5-12007, a county may establish standards  
6 for commercial wind energy facilities, commercial solar energy  
7 facilities, or both. The standards may include all of the  
8 requirements specified in this Section but may not include  
9 requirements for commercial wind energy facilities or  
10 commercial solar energy facilities that are more restrictive  
11 than specified in this Section. A county may also regulate the  
12 siting of commercial wind energy facilities with standards  
13 that are not more restrictive than the requirements specified  
14 in this Section in unincorporated areas of the county that are  
15 outside the zoning jurisdiction of a municipality and that are  
16 outside the 1.5-mile radius surrounding the zoning  
17 jurisdiction of a municipality.

18 (c) If a county has elected to establish standards under  
19 subsection (b), before the county grants siting approval or a  
20 special use permit for a commercial wind energy facility or a  
21 commercial solar energy facility, or modification of an  
22 approved siting or special use permit, the county board of the  
23 county in which the facility is to be sited or the zoning board  
24 of appeals for the county shall hold at least one public  
25 hearing. The public hearing shall be conducted in accordance  
26 with the Open Meetings Act and shall be held not more than 60

1 days after the filing of the application for the facility. The  
2 county shall allow interested parties to a special use permit  
3 an opportunity to present evidence and to cross-examine  
4 witnesses at the hearing, but the county may impose reasonable  
5 restrictions on the public hearing, including reasonable time  
6 limitations on the presentation of evidence and the  
7 cross-examination of witnesses. The county shall also allow  
8 public comment at the public hearing in accordance with the  
9 Open Meetings Act. The county shall make its siting and  
10 permitting decisions not more than 30 days after the  
11 conclusion of the public hearing. Notice of the hearing shall  
12 be published in a newspaper of general circulation in the  
13 county. A facility owner must enter into an agricultural  
14 impact mitigation agreement with the Department of Agriculture  
15 prior to the date of the required public hearing. A commercial  
16 wind energy facility owner seeking an extension of a permit  
17 granted by a county prior to July 24, 2015 (the effective date  
18 of Public Act 99-132) must enter into an agricultural impact  
19 mitigation agreement with the Department of Agriculture prior  
20 to a decision by the county to grant the permit extension.  
21 Counties may allow test wind towers or test solar energy  
22 systems to be sited without formal approval by the county  
23 board.

24 (d) A county with an existing zoning ordinance in conflict  
25 with this Section shall amend that zoning ordinance to be in  
26 compliance with this Section within 120 days after January 27,

1 2023 (the effective date of Public Act 102-1123).

2 (e) A county may require:

3 (1) a wind tower of a commercial wind energy facility  
4 to be sited as follows, with setback distances measured  
5 from the center of the base of the wind tower:

6 Setback Description	Setback Distance
7 Occupied Community 8 Buildings	2.1 times the maximum blade tip height of the wind tower to the 9 nearest point on the outside 10 wall of the structure
11 Participating Residences	1.1 times the maximum blade tip 12 height of the wind tower to the 13 nearest point on the outside 14 wall of the structure
15 Nonparticipating Residences	2.1 times the maximum blade tip 16 height of the wind tower to the 17 nearest point on the outside 18 wall of the structure
19 Boundary Lines of 20 Participating Property	None

1	Boundary Lines of	1.1 times the maximum blade tip
2	Nonparticipating Property	height of the wind tower to the
3		nearest point on the property
4		line of the nonparticipating
5		property
6	Public Road Rights-of-Way	1.1 times the maximum blade tip
7		height of the wind tower
8		to the center point of the
9		public road right-of-way
10	Overhead Communication and	1.1 times the maximum blade tip
11	Electric Transmission	height of the wind tower to the
12	and Distribution Facilities	nearest edge of the property
13	(Not Including Overhead	line, easement, or
14	Utility Service Lines to	right-of-way
15	Individual Houses or	containing the overhead line
16	Outbuildings)	
17	Overhead Utility Service	None
18	Lines to Individual	
19	Houses or Outbuildings	
20	Fish and Wildlife Areas	2.1 times the maximum blade
21	and Illinois Nature	tip height of the wind tower
22	Preserve Commission	to the nearest point on the

1 Protected Lands property line of the fish and  
 2 wildlife area or protected  
 3 land

4 This Section does not exempt or excuse compliance with  
 5 electric facility clearances approved or required by the  
 6 National Electrical Code, the ~~The~~ National Electrical  
 7 Safety Code, the Illinois Commerce Commission, and the  
 8 Federal Energy Regulatory Commission~~7~~ and their designees  
 9 or successors;~~7~~

10 (2) a wind tower of a commercial wind energy facility  
 11 to be sited so that industry standard computer modeling  
 12 indicates that any occupied community building or  
 13 nonparticipating residence will not experience more than  
 14 30 hours per year of shadow flicker under planned  
 15 operating conditions;

16 (3) a commercial solar energy facility to be sited as  
 17 follows, with setback distances measured from the nearest  
 18 edge of any component of the facility:

19 Setback Description	Setback Distance
20 Occupied Community 21 Buildings and Dwellings on 22 Nonparticipating Properties	150 feet from the nearest point on the outside wall of the structure
23 Boundary Lines of	None

1 Participating Property

2 Public Road Rights-of-Way 50 feet from the nearest  
3 edge

4 Boundary Lines of 50 feet to the nearest  
5 Nonparticipating Property point on the property  
6 line of the nonparticipating  
7 property

8 (4) a commercial solar energy facility to be sited so  
9 that the facility's perimeter is enclosed by fencing  
10 having a height of at least 6 feet and no more than 25  
11 feet; and

12 (5) a commercial solar energy facility to be sited so  
13 that no component of a solar panel has a height of more  
14 than 20 feet above ground when the solar energy facility's  
15 arrays are at full tilt.

16 The requirements set forth in this subsection (e) may be  
17 waived subject to the written consent of the owner of each  
18 affected nonparticipating property.

19 (f) A county may not set a sound limitation for wind towers  
20 in commercial wind energy facilities or any components in  
21 commercial solar energy facilities that is more restrictive  
22 than the sound limitations established by the Illinois  
23 Pollution Control Board under 35 Ill. Adm. Code Parts 900,

1 901, and 910.

2 (g) A county may not place any restriction on the  
3 installation or use of a commercial wind energy facility or a  
4 commercial solar energy facility unless it adopts an ordinance  
5 that complies with this Section. A county may not establish  
6 siting standards for supporting facilities that preclude  
7 development of commercial wind energy facilities or commercial  
8 solar energy facilities.

9 A request for siting approval or a special use permit for a  
10 commercial wind energy facility or a commercial solar energy  
11 facility, or modification of an approved siting or special use  
12 permit, shall be approved if the request is in compliance with  
13 the standards and conditions imposed in this Act, the zoning  
14 ordinance adopted consistent with this Code, and the  
15 conditions imposed under State and federal statutes and  
16 regulations.

17 (h) A county may not adopt zoning regulations that  
18 disallow, permanently or temporarily, commercial wind energy  
19 facilities or commercial solar energy facilities from being  
20 developed or operated in any district zoned to allow  
21 agricultural or industrial uses.

22 (i) A county may not require permit application fees for a  
23 commercial wind energy facility or commercial solar energy  
24 facility that are unreasonable. All application fees imposed  
25 by the county shall be consistent with fees for projects in the  
26 county with similar capital value and cost.

1           (j) Except as otherwise provided in this Section, a county  
2 shall not require standards for construction, decommissioning,  
3 or deconstruction of a commercial wind energy facility or  
4 commercial solar energy facility or related financial  
5 assurances that are more restrictive than those included in  
6 the Department of Agriculture's standard wind farm  
7 agricultural impact mitigation agreement, template 81818, or  
8 standard solar agricultural impact mitigation agreement,  
9 version 8.19.19, as applicable and in effect on December 31,  
10 2022. The amount of any decommissioning payment shall be in  
11 accordance with the financial assurance required by those  
12 agricultural impact mitigation agreements.

13           (j-5) A commercial wind energy facility or a commercial  
14 solar energy facility shall file a farmland drainage plan with  
15 the county and impacted drainage districts outlining how  
16 surface and subsurface drainage of farmland will be restored  
17 during and following construction or deconstruction of the  
18 facility. The plan is to be created independently by the  
19 facility developer and shall include the location of any  
20 potentially impacted drainage district facilities to the  
21 extent this information is publicly available from the county  
22 or the drainage district, plans to repair any subsurface  
23 drainage affected during construction or deconstruction using  
24 procedures outlined in the agricultural impact mitigation  
25 agreement entered into by the commercial wind energy facility  
26 owner or commercial solar energy facility owner, and

1 procedures for the repair and restoration of surface drainage  
2 affected during construction or deconstruction. All surface  
3 and subsurface damage shall be repaired as soon as reasonably  
4 practicable.

5 (k) A county may not condition approval of a commercial  
6 wind energy facility or commercial solar energy facility on a  
7 property value guarantee and may not require a facility owner  
8 to pay into a neighboring property devaluation escrow account.

9 (l) A county may require certain vegetative screening  
10 surrounding a commercial wind energy facility or commercial  
11 solar energy facility but may not require earthen berms or  
12 similar structures.

13 (m) A county may set blade tip height limitations for wind  
14 towers in commercial wind energy facilities but may not set a  
15 blade tip height limitation that is more restrictive than the  
16 height allowed under a Determination of No Hazard to Air  
17 Navigation by the Federal Aviation Administration under 14 CFR  
18 Part 77.

19 (n) A county may require that a commercial wind energy  
20 facility owner or commercial solar energy facility owner  
21 provide:

22 (1) the results and recommendations from consultation  
23 with the Illinois Department of Natural Resources that are  
24 obtained through the Ecological Compliance Assessment Tool  
25 (EcoCAT) or a comparable successor tool; and

26 (2) the results of the United States Fish and Wildlife

1 Service's Information for Planning and Consulting  
2 environmental review or a comparable successor tool that  
3 is consistent with (i) the "U.S. Fish and Wildlife  
4 Service's Land-Based Wind Energy Guidelines" and (ii) any  
5 applicable United States Fish and Wildlife Service solar  
6 wildlife guidelines that have been subject to public  
7 review.

8 (o) A county may require a commercial wind energy facility  
9 or commercial solar energy facility to adhere to the  
10 recommendations provided by the Illinois Department of Natural  
11 Resources in an EcoCAT natural resource review report under 17  
12 Ill. Adm. Code Part 1075.

13 (p) A county may require a facility owner to:

14 (1) demonstrate avoidance of protected lands as  
15 identified by the Illinois Department of Natural Resources  
16 and the Illinois Nature Preserve Commission; or

17 (2) consider the recommendations of the Illinois  
18 Department of Natural Resources for setbacks from  
19 protected lands, including areas identified by the  
20 Illinois Nature Preserve Commission.

21 (q) A county may require that a facility owner provide  
22 evidence of consultation with the Illinois State Historic  
23 Preservation Office to assess potential impacts on  
24 State-registered historic sites under the Illinois State  
25 Agency Historic Resources Preservation Act.

26 (q-5) A county may consider public comment concerning

1 commercial wind energy facilities and commercial solar energy  
2 facilities.

3 (r) To maximize community benefits, including, but not  
4 limited to, reduced stormwater runoff, flooding, and erosion  
5 at the ground mounted solar energy system, improved soil  
6 health, and increased foraging habitat for game birds,  
7 songbirds, and pollinators, a county may (1) require a  
8 commercial solar energy facility owner to plant, establish,  
9 and maintain for the life of the facility vegetative ground  
10 cover, consistent with the goals of the Pollinator-Friendly  
11 Solar Site Act and (2) require the submittal of a vegetation  
12 management plan that is in compliance with the agricultural  
13 impact mitigation agreement in the application to construct  
14 and operate a commercial solar energy facility in the county  
15 if the vegetative ground cover and vegetation management plan  
16 comply with the requirements of the underlying agreement with  
17 the landowner or landowners where the facility will be  
18 constructed.

19 No later than 90 days after January 27, 2023 (the  
20 effective date of Public Act 102-1123), the Illinois  
21 Department of Natural Resources shall develop guidelines for  
22 vegetation management plans that may be required under this  
23 subsection for commercial solar energy facilities. The  
24 guidelines must include guidance for short-term and long-term  
25 property management practices that provide and maintain native  
26 and non-invasive naturalized perennial vegetation to protect

1 the health and well-being of pollinators.

2 (s) If a facility owner enters into a road use agreement  
3 with the Illinois Department of Transportation, a road  
4 district, or other unit of local government relating to a  
5 commercial wind energy facility or a commercial solar energy  
6 facility, the road use agreement shall require the facility  
7 owner to be responsible for (i) the reasonable cost of  
8 improving roads used by the facility owner to construct the  
9 commercial wind energy facility or the commercial solar energy  
10 facility and (ii) the reasonable cost of repairing roads used  
11 by the facility owner during construction of the commercial  
12 wind energy facility or the commercial solar energy facility  
13 so that those roads are in a condition that is safe for the  
14 driving public after the completion of the facility's  
15 construction. Roadways improved in preparation for and during  
16 the construction of the commercial wind energy facility or  
17 commercial solar energy facility shall be repaired and  
18 restored to the improved condition at the reasonable cost of  
19 the developer if the roadways have degraded or were damaged as  
20 a result of construction-related activities.

21 The road use agreement shall not require the facility  
22 owner to pay costs, fees, or charges for road work that is not  
23 specifically and uniquely attributable to the construction of  
24 the commercial wind energy facility or the commercial solar  
25 energy facility. Road-related fees, permit fees, or other  
26 charges imposed by the Illinois Department of Transportation,

1 a road district, or other unit of local government under a road  
2 use agreement with the facility owner shall be reasonably  
3 related to the cost of administration of the road use  
4 agreement.

5 (s-5) The facility owner shall also compensate landowners  
6 for crop losses or other agricultural damages resulting from  
7 damage to the drainage system caused by the construction of  
8 the commercial wind energy facility or the commercial solar  
9 energy facility. The commercial wind energy facility owner or  
10 commercial solar energy facility owner shall repair or pay for  
11 the repair of all damage to the subsurface drainage system  
12 caused by the construction of the commercial wind energy  
13 facility or the commercial solar energy facility in accordance  
14 with the agriculture impact mitigation agreement requirements  
15 for repair of drainage. The commercial wind energy facility  
16 owner or commercial solar energy facility owner shall repair  
17 or pay for the repair and restoration of surface drainage  
18 caused by the construction or deconstruction of the commercial  
19 wind energy facility or the commercial solar energy facility  
20 as soon as reasonably practicable.

21 (t) Notwithstanding any other provision of law, a facility  
22 owner with siting approval from a county to construct a  
23 commercial wind energy facility or a commercial solar energy  
24 facility is authorized to cross or impact a drainage system,  
25 including, but not limited to, drainage tiles, open drainage  
26 ditches, culverts, and water gathering vaults, owned or under

1 the control of a drainage district under the Illinois Drainage  
2 Code without obtaining prior agreement or approval from the  
3 drainage district in accordance with the farmland drainage  
4 plan required by subsection (j-5).

5 (u) The amendments to this Section adopted in Public Act  
6 102-1123 do not apply to: (1) an application for siting  
7 approval or for a special use permit for a commercial wind  
8 energy facility or commercial solar energy facility if the  
9 application was submitted to a unit of local government before  
10 January 27, 2023 (the effective date of Public Act 102-1123);  
11 (2) a commercial wind energy facility or a commercial solar  
12 energy facility if the facility owner has submitted an  
13 agricultural impact mitigation agreement to the Department of  
14 Agriculture before January 27, 2023 (the effective date of  
15 Public Act 102-1123); or (3) a commercial wind energy or  
16 commercial solar energy development on property that is  
17 located within an enterprise zone certified under the Illinois  
18 Enterprise Zone Act, that was classified as industrial by the  
19 appropriate zoning authority on or before January 27, 2023,  
20 and that is located within 4 miles of the intersection of  
21 Interstate 88 and Interstate 39.

22 (Source: P.A. 102-1123, eff. 1-27-23; 103-81, eff. 6-9-23;  
23 103-580, eff. 12-8-23; revised 7-29-24.)