



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB4873

by Rep. Amy Elik

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-12020

Amends the Counties Code. In provisions about commercial wind energy facilities and commercial solar energy facilities, removes changes made by Public Act 102-1123. Provides that any provision of a county zoning ordinance pertaining to wind farms, commercial wind energy facilities, or commercial solar energy facilities that was in effect before January 27, 2023 may continue in effect notwithstanding any changes made in Public Act 102-1123 and, if applicable, any provision of a county zoning ordinance pertaining to wind farms that was in effect before August 16, 2007 may continue in effect notwithstanding the changes made in Public Act 95-203.

LRB104 17756 WRO 31188 b

AN ACT concerning local government.

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

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

(55 ILCS 5/5-12020)

(Text of Section before amendment by P.A. 104-458)

Sec. 5-12020. Wind farms, electric-generating wind
devices, and commercial ~~Commercial~~ wind energy facilities ~~and
commercial solar energy facilities.~~

~~(a) As used in this Section:~~

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

1 ~~an extension of a permit to construct granted by a county or~~
2 ~~municipality before January 27, 2023 (the effective date of~~
3 ~~Public Act 102-1123).~~

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

15 ~~"Nonparticipating property" means real property that is~~
16 ~~not a participating property.~~

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

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

1 ~~facility, public library, or community center.~~

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

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

17 ~~"Protected lands" means real property that is:~~

18 ~~(1) subject to a permanent conservation right~~
19 ~~consistent with the Real Property Conservation Rights Act;~~

20 ~~or~~

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

24 ~~"Supporting facilities" means the transmission lines,~~
25 ~~substations, access roads, meteorological towers, storage~~
26 ~~containers, and equipment associated with the generation and~~

1 ~~storage of electricity by the commercial wind energy facility~~
2 ~~or commercial solar energy facility.~~

3 ~~"Wind tower" includes the wind turbine tower, nacelle, and~~
4 ~~blades.~~

5 ~~(b)~~ Notwithstanding any other provision of law or whether
6 the county has formed a zoning commission and adopted formal
7 zoning under Section 5-12007, a county may establish standards
8 for wind farms and electric-generating wind devices ~~commercial~~
9 ~~wind energy facilities, commercial solar energy facilities, or~~
10 ~~both.~~ The standards may include, without limitation, the
11 height of the devices and the number of devices that may be
12 located within a geographic area ~~all of the requirements~~
13 ~~specified in this Section but may not include requirements for~~
14 ~~commercial wind energy facilities or commercial solar energy~~
15 ~~facilities that are more restrictive than specified in this~~
16 ~~Section.~~ A county may also regulate the siting of wind farms
17 and electric-generating wind devices ~~commercial wind energy~~
18 ~~facilities with standards that are not more restrictive than~~
19 ~~the requirements specified in this Section~~ in unincorporated
20 areas of the county ~~that are~~ outside the zoning jurisdiction
21 of a municipality and ~~that are outside~~ the 1.5-mile radius
22 surrounding the zoning jurisdiction of a municipality.

23 There shall be at least one public hearing ~~(c) If a county~~
24 ~~has elected to establish standards under subsection (b),~~
25 ~~before the county grants siting approval or a special use~~
26 ~~permit for a commercial wind energy facility or a commercial~~

1 ~~solar energy facility, or modification of an approved siting~~
2 ~~or special use permit, the county board of the county in which~~
3 ~~the facility is to be sited or the zoning board of appeals for~~
4 ~~the county shall hold at least one public hearing. The public~~
5 ~~hearing shall be conducted in accordance with the Open~~
6 ~~Meetings Act and shall be held not more than 60 days after the~~
7 ~~filing of the application for the facility. The county shall~~
8 ~~allow interested parties to a special use permit an~~
9 ~~opportunity to present evidence and to cross examine witnesses~~
10 ~~at the hearing, but the county may impose reasonable~~
11 ~~restrictions on the public hearing, including reasonable time~~
12 ~~limitations on the presentation of evidence and the~~
13 ~~cross examination of witnesses. The county shall also allow~~
14 ~~public comment at the public hearing in accordance with the~~
15 ~~Open Meetings Act. The county shall make its siting and~~
16 ~~permitting decisions not more than 30 days prior to a siting~~
17 ~~decision by the county board after the conclusion of the~~
18 ~~public hearing.~~ Notice of the hearing shall be published in a
19 newspaper of general circulation in the county. A commercial
20 wind energy facility owner, as defined in the Renewable Energy
21 Facilities Agricultural Impact Mitigation Act, must enter into
22 an agricultural impact mitigation agreement with the
23 Department of Agriculture prior to the date of the required
24 public hearing. A commercial wind energy facility owner
25 seeking an extension of a permit granted by a county prior to
26 July 24, 2015 (the effective date of Public Act 99-132) must

1 enter into an agricultural impact mitigation agreement with
2 the Department of Agriculture prior to a decision by the
3 county to grant the permit extension. Counties may allow test
4 wind towers ~~or test solar energy systems~~ to be sited without
5 formal approval by the county board. Any provision of a county
6 zoning ordinance pertaining to wind farms, commercial wind
7 energy facilities, or commercial solar energy facilities that
8 was in effect before January 27, 2023 may continue in effect
9 notwithstanding any changes made in Public Act 102-1123 and,
10 if applicable, any provision of a county zoning ordinance
11 pertaining to wind farms that was in effect before August 16,
12 2007 may continue in effect notwithstanding the changes made
13 in Public Act 95-203.

14 ~~(d) A county with an existing zoning ordinance in conflict~~
15 ~~with this Section shall amend that zoning ordinance to be in~~
16 ~~compliance with this Section within 120 days after January 27,~~
17 ~~2023 (the effective date of Public Act 102-1123).~~

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

22 Only a county may establish standards for wind farms,
23 electric-generating wind devices, and commercial wind energy
24 facilities, as that term is defined in Section 10 of the
25 Renewable Energy Facilities Agricultural Impact Mitigation
26 Act, in unincorporated areas of the county outside of the

zoning jurisdiction of a municipality and outside the 1.5-mile
radius surrounding the zoning jurisdiction of a municipality.

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

Setback Description	Setback Distance
Occupied Community Buildings	2.1 times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure
Participating Residences	1.1 times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure
Nonparticipating Residences	2.1 times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure
Boundary Lines of 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

~~Protected Lands property line of the fish and
wildlife area or protected
land~~

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

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

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

Setback Description	Setback Distance
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Occupied Community	150 feet from the nearest
Buildings and Dwellings on	point on the outside wall
Nonparticipating Properties	of the structure

Boundary Lines of	None
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~~Participating Property~~

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

~~Boundary Lines of 50 feet to the nearest
Nonparticipating Property point on the property
line of the nonparticipating
property~~

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

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

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

~~(f) A county may not set a sound limitation for wind towers
in commercial wind energy facilities or any components in
commercial solar energy facilities that is more restrictive
than the sound limitations established by the Illinois
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~~

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

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

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

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

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

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

~~(r) To maximize community benefits, including, but not~~

1 ~~limited to, reduced stormwater runoff, flooding, and erosion~~
2 ~~at the ground mounted solar energy system, improved soil~~
3 ~~health, and increased foraging habitat for game birds,~~
4 ~~songbirds, and pollinators, a county may (1) require a~~
5 ~~commercial solar energy facility owner to plant, establish,~~
6 ~~and maintain for the life of the facility vegetative ground~~
7 ~~cover, consistent with the goals of the Pollinator Friendly~~
8 ~~Solar Site Act and (2) require the submittal of a vegetation~~
9 ~~management plan that is in compliance with the agricultural~~
10 ~~impact mitigation agreement in the application to construct~~
11 ~~and operate a commercial solar energy facility in the county~~
12 ~~if the vegetative ground cover and vegetation management plan~~
13 ~~comply with the requirements of the underlying agreement with~~
14 ~~the landowner or landowners where the facility will be~~
15 ~~constructed.~~

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

25 ~~(s) If a facility owner enters into a road use agreement~~
26 ~~with the Illinois Department of Transportation, a road~~

~~district, or other unit of local government relating to a commercial wind energy facility or a commercial solar energy facility, the road use agreement shall require the facility owner to be responsible for (i) the reasonable cost of improving roads used by the facility owner to construct the commercial wind energy facility or the commercial solar energy facility and (ii) the reasonable cost of repairing roads used by the facility owner during construction of the commercial wind energy facility or the commercial solar energy facility so that those roads are in a condition that is safe for the driving public after the completion of the facility's construction. Roadways improved in preparation for and during the construction of the commercial wind energy facility or commercial solar energy facility shall be repaired and restored to the improved condition at the reasonable cost of the developer if the roadways have degraded or were damaged as a result of construction related activities.~~

~~The road use agreement shall not require the facility owner to pay costs, fees, or charges for road work that is not specifically and uniquely attributable to the construction of the commercial wind energy facility or the commercial solar energy facility. Road related fees, permit fees, or other charges imposed by the Illinois Department of Transportation, a road district, or other unit of local government under a road use agreement with the facility owner shall be reasonably related to the cost of administration of the road use~~

1 ~~agreement.~~

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

18 ~~(t) Notwithstanding any other provision of law, a facility~~
19 ~~owner with siting approval from a county to construct a~~
20 ~~commercial wind energy facility or a commercial solar energy~~
21 ~~facility is authorized to cross or impact a drainage system,~~
22 ~~including, but not limited to, drainage tiles, open drainage~~
23 ~~ditches, culverts, and water gathering vaults, owned or under~~
24 ~~the control of a drainage district under the Illinois Drainage~~
25 ~~Code without obtaining prior agreement or approval from the~~
26 ~~drainage district in accordance with the farmland drainage~~

1 ~~plan required by subsection (j-5).~~

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

19 (Source: P.A. 103-81, eff. 6-9-23; 103-580, eff. 12-8-23;
20 104-417, eff. 8-15-25.)

21 (Text of Section after amendment by P.A. 104-458)

22 Sec. 5-12020. Wind farms, electric-generating wind
23 devices, and commercial ~~Commercial~~ wind energy facilities ~~and~~
24 ~~commercial solar energy facilities.~~

25 ~~(a) As used in this Section:~~

1 ~~"Commercial solar energy facility" means a "commercial~~
2 ~~solar energy system" as defined in Section 10-720 of the~~
3 ~~Property Tax Code. "Commercial solar energy facility" does not~~
4 ~~mean a utility-scale solar energy facility being constructed~~
5 ~~at a site that was eligible to participate in a procurement~~
6 ~~event conducted by the Illinois Power Agency pursuant to~~
7 ~~subsection (c 5) of Section 1-75 of the Illinois Power Agency~~
8 ~~Act.~~

9 ~~"Commercial wind energy facility" means a wind energy~~
10 ~~conversion facility of equal or greater than 500 kilowatts in~~
11 ~~total nameplate generating capacity. "Commercial wind energy~~
12 ~~facility" includes a wind energy conversion facility seeking~~
13 ~~an extension of a permit to construct granted by a county or~~
14 ~~municipality before January 27, 2023 (the effective date of~~
15 ~~Public Act 102-1123).~~

16 ~~"Facility owner" means (i) a person with a direct~~
17 ~~ownership interest in a commercial wind energy facility or a~~
18 ~~commercial solar energy facility, or both, regardless of~~
19 ~~whether the person is involved in acquiring the necessary~~
20 ~~rights, permits, and approvals or otherwise planning for the~~
21 ~~construction and operation of the facility, and (ii) at the~~
22 ~~time the facility is being developed, a person who is acting as~~
23 ~~a developer of the facility by acquiring the necessary rights,~~
24 ~~permits, and approvals or by planning for the construction and~~
25 ~~operation of the facility, regardless of whether the person~~
26 ~~will own or operate the facility.~~

1 ~~"Nonparticipating property" means real property that is~~
2 ~~not a participating property.~~

3 ~~"Nonparticipating residence" means a residence that is~~
4 ~~located on nonparticipating property and that is existing and~~
5 ~~occupied on the date that an application for a permit to~~
6 ~~develop the commercial wind energy facility or the commercial~~
7 ~~solar energy facility is filed with the county.~~

8 ~~"Occupied community building" means any one or more of the~~
9 ~~following buildings that is existing and occupied on the date~~
10 ~~that the application for a permit to develop the commercial~~
11 ~~wind energy facility or the commercial solar energy facility~~
12 ~~is filed with the county: a school, place of worship, day care~~
13 ~~facility, public library, or community center.~~

14 ~~"Participating property" means real property that is the~~
15 ~~subject of a written agreement between a facility owner and~~
16 ~~the owner of the real property that provides the facility~~
17 ~~owner an easement, option, lease, or license to use the real~~
18 ~~property for the purpose of constructing a commercial wind~~
19 ~~energy facility, a commercial solar energy facility, or~~
20 ~~supporting facilities. "Participating property" also includes~~
21 ~~real property that is owned by a facility owner for the purpose~~
22 ~~of constructing a commercial wind energy facility, a~~
23 ~~commercial solar energy facility, or supporting facilities.~~

24 ~~"Participating residence" means a residence that is~~
25 ~~located on participating property and that is existing and~~
26 ~~occupied on the date that an application for a permit to~~

1 ~~develop the commercial wind energy facility or the commercial~~
2 ~~solar energy facility is filed with the county.~~

3 ~~"Protected lands" means real property that is:~~

4 ~~(1) subject to a permanent conservation right~~
5 ~~consistent with the Real Property Conservation Rights Act,~~
6 ~~or~~

7 ~~(2) registered or designated as a nature preserve,~~
8 ~~buffer, or land and water reserve under the Illinois~~
9 ~~Natural Areas Preservation Act.~~

10 ~~"Supporting facilities" means the transmission lines,~~
11 ~~substations, access roads, meteorological towers, storage~~
12 ~~containers, and equipment associated with the generation and~~
13 ~~storage of electricity by the commercial wind energy facility~~
14 ~~or commercial solar energy facility. "Supporting facilities"~~
15 ~~includes energy storage systems capable of absorbing energy~~
16 ~~and storing it for use at a later time, including, but not~~
17 ~~limited to, batteries and other electrochemical and~~
18 ~~electromechanical technologies or systems.~~

19 ~~"Wind tower" includes the wind turbine tower, nacelle, and~~
20 ~~blades.~~

21 ~~(b)~~ Notwithstanding any other provision of law or whether
22 the county has formed a zoning commission and adopted formal
23 zoning under Section 5-12007, a county may establish standards
24 for wind farms and electric-generating wind devices ~~commercial~~
25 ~~wind energy facilities, commercial solar energy facilities, or~~
26 ~~both.~~ The standards may include, without limitation, the

1 height of the devices and the number of devices that may be
2 located within a geographic area ~~all of the requirements~~
3 ~~specified in this Section but may not include requirements for~~
4 ~~commercial wind energy facilities or commercial solar energy~~
5 ~~facilities that are more restrictive than specified in this~~
6 ~~Section.~~ A county may also regulate the siting of wind farms
7 and electric-generating wind devices ~~commercial wind energy~~
8 ~~facilities with standards that are not more restrictive than~~
9 ~~the requirements specified in this Section~~ in unincorporated
10 areas of the county ~~that are~~ outside the zoning jurisdiction
11 of a municipality and ~~that are outside~~ the 1.5-mile radius
12 surrounding the zoning jurisdiction of a municipality. A
13 county may also regulate the siting of commercial solar energy
14 facilities with standards that are not more restrictive than
15 the requirements specified in this Section in unincorporated
16 areas of the county that are outside of the zoning
17 jurisdiction of a municipality.

18 There shall be at least one public hearing ~~(c) If a county~~
19 ~~has elected to establish standards under subsection (b),~~
20 ~~before the county grants siting approval or a special use~~
21 ~~permit for a commercial wind energy facility or a commercial~~
22 ~~solar energy facility, or modification of an approved siting~~
23 ~~or special use permit, the county board of the county in which~~
24 ~~the facility is to be sited or the zoning board of appeals for~~
25 ~~the county shall hold at least one public hearing. The public~~
26 ~~hearing shall be conducted in accordance with the Open~~

1 ~~Meetings Act and shall conclude not more than 60 days after the~~
2 ~~filing of the application for the facility. The county shall~~
3 ~~allow interested parties to a special use permit an~~
4 ~~opportunity to present evidence and to cross-examine witnesses~~
5 ~~at the hearing, but the county may impose reasonable~~
6 ~~restrictions on the public hearing, including reasonable time~~
7 ~~limitations on the presentation of evidence and the~~
8 ~~cross-examination of witnesses. The county shall also allow~~
9 ~~public comment at the public hearing in accordance with the~~
10 ~~Open Meetings Act. The county shall make its siting and~~
11 ~~permitting decisions not more than 30 days prior to a siting~~
12 ~~decision by the county board after the conclusion of the~~
13 ~~public hearing. Notice of the hearing shall be published in a~~
14 ~~newspaper of general circulation in the county. A commercial~~
15 ~~wind energy facility owner, as defined in the Renewable Energy~~
16 ~~Facilities Agricultural Impact Mitigation Act, must enter into~~
17 ~~an agricultural impact mitigation agreement with the~~
18 ~~Department of Agriculture prior to the date of the required~~
19 ~~public hearing. A commercial wind energy facility owner~~
20 ~~seeking an extension of a permit granted by a county prior to~~
21 ~~July 24, 2015 (the effective date of Public Act 99-132) must~~
22 ~~enter into an agricultural impact mitigation agreement with~~
23 ~~the Department of Agriculture prior to a decision by the~~
24 ~~county to grant the permit extension. Counties may allow test~~
25 ~~wind towers ~~or test solar energy systems~~ to be sited without~~
26 ~~formal approval by the county board. Any provision of a county~~

1 zoning ordinance pertaining to wind farms, commercial wind
2 energy facilities, or commercial solar energy facilities that
3 was in effect before January 27, 2023 may continue in effect
4 notwithstanding any changes made in Public Act 102-1123 and,
5 if applicable, any provision of a county zoning ordinance
6 pertaining to wind farms that was in effect before August 16,
7 2007 may continue in effect notwithstanding the changes made
8 in Public Act 95-203.

9 ~~(d) A county with an existing zoning ordinance in conflict~~
10 ~~with this Section shall amend that zoning ordinance to be in~~
11 ~~compliance with this Section within 120 days after January 27,~~
12 ~~2023 (the effective date of Public Act 102-1123).~~

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

17 Only a county may establish standards for wind farms,
18 electric-generating wind devices, and commercial wind energy
19 facilities, as that term is defined in Section 10 of the
20 Renewable Energy Facilities Agricultural Impact Mitigation
21 Act, in unincorporated areas of the county outside of the
22 zoning jurisdiction of a municipality and outside the 1.5-mile
23 radius surrounding the zoning jurisdiction of a municipality.

24 ~~(1) a wind tower of a commercial wind energy facility~~
25 ~~to be sited as follows, with setback distances measured~~
26 ~~from the center of the base of the wind tower:~~

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

~~Public Road Rights-of-Way 1.1 times the maximum blade tip
height of the wind tower
to the center point of the
public road right-of-way~~

~~Overhead Communication and 1.1 times the maximum blade tip
Electric Transmission height of the wind tower to the
and Distribution Facilities nearest edge of the property
(Not Including Overhead line, easement, or
Utility Service Lines to right-of-way
Individual Houses or containing the overhead line
Outbuildings)~~

~~Overhead Utility Service None
Lines to Individual
Houses or Outbuildings~~

~~Fish and Wildlife Areas 2.1 times the maximum blade
and Illinois Nature tip height of the wind tower
Preserve Commission to the nearest point on the
Protected Lands property line of the fish and
wildlife area or protected
land~~

~~This Section does not exempt or excuse compliance with
electric facility clearances approved or required by the~~

~~National Electrical Code, the National Electrical Safety Code, the Illinois Commerce Commission, and the Federal Energy Regulatory Commission and their designees or successors;~~

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

~~(3) a commercial solar energy facility to be sited as follows, with setback distances measured from the nearest edge of any above-ground component of the facility, excluding fencing:~~

Setback Description	Setback Distance
Occupied Community	150 feet from the nearest
Buildings and Dwellings on	point on the outside wall
Nonparticipating Properties	of the structure
Boundary Lines of	None
Participating Property	
Public Road Rights-of-Way	50 feet from the nearest
	edge of the public

~~right of way~~

~~Boundary Lines of~~ ~~50 feet to the nearest~~
~~Nonparticipating Property~~ ~~point on the property~~
~~line of the nonparticipating~~
~~property~~

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

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

~~This subsection (c) shall not preclude the ability of a~~
~~county to require a reasonable setback distance between~~
~~fencing and public rights of way if the requirement is not~~
~~specific to commercial wind energy facilities or commercial~~
~~solar energy facilities and does not preclude the development~~
~~of commercial wind energy facilities or commercial solar~~
~~energy facilities or the ability of commercial wind energy~~
~~facilities or commercial solar energy facilities to comply~~
~~with the requirements set forth in this subsection (c).~~

~~The requirements set forth in this subsection (c) may be~~
~~waived subject to the written consent of the owner of each~~

1 ~~affected nonparticipating property.~~

2 ~~(f) A county may not set a sound limitation for wind towers~~
3 ~~in commercial wind energy facilities or any components in~~
4 ~~commercial solar energy facilities that is more restrictive~~
5 ~~than the sound limitations established by the Illinois~~
6 ~~Pollution Control Board under 35 Ill. Adm. Code Parts 900,~~
7 ~~901, and 910. Additionally, in accordance with Section 25 of~~
8 ~~the Environmental Protection Act, a participating property,~~
9 ~~participating residence, nonparticipating property,~~
10 ~~nonparticipating residence, or any combination of those~~
11 ~~properties or residences may waive enforcement of the rules~~
12 ~~adopted by the Illinois Pollution Control Board under 35 Ill.~~
13 ~~Adm. Code Parts 900, 901, and 910 by written waiver that~~
14 ~~complies with the applicable directive established in Section~~
15 ~~25 of the Environmental Protection Act and is recorded in the~~
16 ~~Office of the Recorder of the county in which the~~
17 ~~participating property, participating residence,~~
18 ~~nonparticipating property, or nonparticipating residence is~~
19 ~~located. Once recorded, such a waiver shall be binding on any~~
20 ~~current and future owners, residents, lessees, invitees, and~~
21 ~~users of the participating property, participating residence,~~
22 ~~nonparticipating property, or nonparticipating residence for~~
23 ~~enforcement purposes. An owner of any participating residence~~
24 ~~or nonparticipating residence shall disclose the existence of~~
25 ~~such a waiver to any lessee before entering any new lease for~~
26 ~~the residence.~~

1 ~~A seller or transferor of a participating property,~~
2 ~~participating residence, nonparticipating property,~~
3 ~~nonparticipating residence, or any combination of those~~
4 ~~properties or residences shall disclose the existence of such~~
5 ~~a waiver to any buyer or transferee before any sale or transfer~~
6 ~~of the property. If disclosure of the waiver occurs after the~~
7 ~~buyer has made an offer to purchase the property, the seller~~
8 ~~shall disclose the existence of the waiver before accepting~~
9 ~~the buyer's offer and shall (1) allow the buyer an opportunity~~
10 ~~to review the disclosure and (2) inform the buyer that the~~
11 ~~buyer has the right to amend the buyer's offer.~~

12 ~~(g) A county may not place any restriction on the~~
13 ~~installation or use of a commercial wind energy facility or a~~
14 ~~commercial solar energy facility unless it adopts an ordinance~~
15 ~~that complies with this Section. A county may not establish~~
16 ~~siting standards for supporting facilities that preclude~~
17 ~~development of commercial wind energy facilities or commercial~~
18 ~~solar energy facilities.~~

19 ~~A request for siting approval or a special use permit for a~~
20 ~~commercial wind energy facility or a commercial solar energy~~
21 ~~facility, or modification of an approved siting or special use~~
22 ~~permit, shall be approved if the request is in compliance with~~
23 ~~the standards and conditions imposed in this Act, the zoning~~
24 ~~ordinance adopted consistent with this Act, and the conditions~~
25 ~~imposed under State and federal statutes and regulations.~~

26 ~~(h) A county may not adopt zoning regulations that~~

1 ~~disallow, permanently or temporarily, commercial wind energy~~
2 ~~facilities or commercial solar energy facilities from being~~
3 ~~developed or operated in any district zoned to allow~~
4 ~~agricultural or industrial uses.~~

5 ~~(i) (Blank).~~

6 ~~(i 5) All siting approval or special use permit~~
7 ~~application fees for a commercial wind energy facility or~~
8 ~~commercial solar energy facility must be reasonable. Fees that~~
9 ~~do not exceed \$5,000 per each megawatt of nameplate capacity~~
10 ~~of the energy facility, up to a maximum of \$125,000, shall be~~
11 ~~considered presumptively reasonable. A county may also require~~
12 ~~reimbursement from the applicant for any reasonable expenses~~
13 ~~incurred by the county in processing the siting approval or~~
14 ~~special use permit application in excess of the maximum fee. A~~
15 ~~siting approval or special use permit shall not be subject to~~
16 ~~any time deadline to start construction or obtain a building~~
17 ~~permit of less than 5 years from the date of siting approval or~~
18 ~~special use permit approval. A county shall allow an applicant~~
19 ~~to request an extension of the deadline based upon reasonable~~
20 ~~cause for the extension request. The exemption shall not be~~
21 ~~unreasonably withheld, conditioned, or denied.~~

22 ~~(i 10) A county may require, for a commercial wind energy~~
23 ~~facility or commercial solar energy facility, a single~~
24 ~~building permit and a reasonable permit fee for the facility~~
25 ~~which includes all supporting facilities. County building~~
26 ~~permit fees for commercial wind energy facility or commercial~~

~~solar energy facility that do not exceed \$5,000 per each megawatt of nameplate capacity of the energy facility, up to a maximum of \$75,000, shall be considered presumptively reasonable. A county may also require reimbursement from the applicant for any reasonable expenses incurred by the county in processing the building permit in excess of the maximum fee. A county may require an applicant, upon start of construction of the facility, to maintain liability insurance that is commercially reasonable and consistent with prevailing industry standards for similar energy facilities.~~

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

~~(j-5) A commercial wind energy facility or a commercial solar energy facility shall file a farmland drainage plan with the county and impacted drainage districts outlining how surface and subsurface drainage of farmland will be restored~~

1 ~~during and following construction or deconstruction of the~~
2 ~~facility. The plan is to be created independently by the~~
3 ~~facility developer and shall include the location of any~~
4 ~~potentially impacted drainage district facilities to the~~
5 ~~extent this information is publicly available from the county~~
6 ~~or the drainage district, plans to repair any subsurface~~
7 ~~drainage affected during construction or deconstruction using~~
8 ~~procedures outlined in the agricultural impact mitigation~~
9 ~~agreement entered into by the commercial wind energy facility~~
10 ~~owner or commercial solar energy facility owner, and~~
11 ~~procedures for the repair and restoration of surface drainage~~
12 ~~affected during construction or deconstruction. All surface~~
13 ~~and subsurface damage shall be repaired as soon as reasonably~~
14 ~~practicable.~~

15 ~~(k) A county may not condition approval of a commercial~~
16 ~~wind energy facility or commercial solar energy facility on a~~
17 ~~property value guarantee and may not require a facility owner~~
18 ~~to pay into a neighboring property devaluation escrow account.~~

19 ~~(l) A county may require certain vegetative screening~~
20 ~~between a commercial solar energy facility and~~
21 ~~nonparticipating residences. A county may not require earthen~~
22 ~~berms or similar structures. Vegetative screening requirements~~
23 ~~shall be commercially reasonable and limited in height at full~~
24 ~~maturity to avoid reduction of the productive energy output of~~
25 ~~the commercial solar energy facility. A county may not require~~
26 ~~vegetative screening to exceed 5 feet in height when first~~

1 ~~installed or prior to commercial operation date. The screening~~
2 ~~requirements shall take into account the size and location of~~
3 ~~the facility, visibility from nonparticipating residences,~~
4 ~~compatibility of native plant species, cost and feasibility of~~
5 ~~installation and maintenance, and industry standards and best~~
6 ~~practices for commercial solar energy facilities.~~

7 ~~(m) A county may set blade tip height limitations for wind~~
8 ~~towers in commercial wind energy facilities but may not set a~~
9 ~~blade tip height limitation that is more restrictive than the~~
10 ~~height allowed under a Determination of No Hazard to Air~~
11 ~~Navigation by the Federal Aviation Administration under 14 CFR~~
12 ~~Part 77.~~

13 ~~(n) A county may require that a commercial wind energy~~
14 ~~facility owner or commercial solar energy facility owner~~
15 ~~provide:~~

16 ~~(1) the results and recommendations from consultation~~
17 ~~with the Illinois Department of Natural Resources that are~~
18 ~~obtained through the Ecological Compliance Assessment Tool~~
19 ~~(EcoCAT) or a comparable successor tool; and~~

20 ~~(2) (blank).~~

21 ~~(o) A county may require a commercial wind energy facility~~
22 ~~or commercial solar energy facility to adhere to the~~
23 ~~recommendations provided by the Illinois Department of Natural~~
24 ~~Resources in an EcoCAT natural resource review report under 17~~
25 ~~Ill. Adm. Code Part 1075.~~

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

1 ~~(1) demonstrate avoidance of protected lands as~~
2 ~~identified by the Illinois Department of Natural Resources~~
3 ~~and the Illinois Nature Preserve Commission; or~~

4 ~~(2) consider the recommendations of the Illinois~~
5 ~~Department of Natural Resources for setbacks from~~
6 ~~protected lands, including areas identified by the~~
7 ~~Illinois Nature Preserve Commission.~~

8 ~~(q) A county may require that a facility owner provide~~
9 ~~evidence of consultation with the Illinois State Historic~~
10 ~~Preservation Office to assess potential impacts on~~
11 ~~State-registered historic sites under the Illinois State~~
12 ~~Agency Historic Resources Preservation Act.~~

13 ~~(r) To maximize community benefits, including, but not~~
14 ~~limited to, reduced stormwater runoff, flooding, and erosion~~
15 ~~at the ground mounted solar energy system, improved soil~~
16 ~~health, and increased foraging habitat for game birds,~~
17 ~~songbirds, and pollinators, a county may (1) require a~~
18 ~~commercial solar energy facility owner to plant, establish,~~
19 ~~and maintain for the life of the facility vegetative ground~~
20 ~~cover, consistent with the goals of the Pollinator-Friendly~~
21 ~~Solar Site Act and (2) require the submittal of a vegetation~~
22 ~~management plan that is in compliance with the agricultural~~
23 ~~impact mitigation agreement in the application to construct~~
24 ~~and operate a commercial solar energy facility in the county~~
25 ~~if the vegetative ground cover and vegetation management plan~~
26 ~~comply with the requirements of the underlying agreement with~~

1 ~~the landowner or landowners where the facility will be~~
2 ~~constructed.~~

3 ~~No later than 90 days after January 27, 2023 (the~~
4 ~~effective date of Public Act 102-1123), the Illinois~~
5 ~~Department of Natural Resources shall develop guidelines for~~
6 ~~vegetation management plans that may be required under this~~
7 ~~subsection for commercial solar energy facilities. The~~
8 ~~guidelines must include guidance for short term and long term~~
9 ~~property management practices that provide and maintain native~~
10 ~~and non invasive naturalized perennial vegetation to protect~~
11 ~~the health and well-being of pollinators.~~

12 ~~(s) If a facility owner enters into a road use agreement~~
13 ~~with the Illinois Department of Transportation, a road~~
14 ~~district, or other unit of local government relating to a~~
15 ~~commercial wind energy facility or a commercial solar energy~~
16 ~~facility, the road use agreement shall require the facility~~
17 ~~owner to be responsible for (i) the reasonable cost of~~
18 ~~improving roads used by the facility owner to construct the~~
19 ~~commercial wind energy facility or the commercial solar energy~~
20 ~~facility and (ii) the reasonable cost of repairing roads used~~
21 ~~by the facility owner during construction of the commercial~~
22 ~~wind energy facility or the commercial solar energy facility~~
23 ~~so that those roads are in a condition that is safe for the~~
24 ~~driving public after the completion of the facility's~~
25 ~~construction. Roadways improved in preparation for and during~~
26 ~~the construction of the commercial wind energy facility or~~

1 ~~commercial solar energy facility shall be repaired and~~
2 ~~restored to the improved condition at the reasonable cost of~~
3 ~~the developer if the roadways have degraded or were damaged as~~
4 ~~a result of construction-related activities.~~

5 ~~The road use agreement shall not require the facility~~
6 ~~owner to pay costs, fees, or charges for road work that is not~~
7 ~~specifically and uniquely attributable to the construction of~~
8 ~~the commercial wind energy facility or the commercial solar~~
9 ~~energy facility. No road district or other unit of local~~
10 ~~government may request or require permit fees, fines, or other~~
11 ~~payment obligations as a requirement for a road use agreement~~
12 ~~with a facility owner unless the amount of the reasonable~~
13 ~~permit fee or payment is equivalent to the amount of actual~~
14 ~~expenses incurred by the road district or other unit of local~~
15 ~~government for negotiating, executing, constructing, or~~
16 ~~implementing the road use agreement. The road use agreement~~
17 ~~shall not require any road work to be performed by or paid for~~
18 ~~by the facility owner that is not specifically and uniquely~~
19 ~~attributable to the road improvements required for the~~
20 ~~construction of the commercial wind energy facility or the~~
21 ~~commercial solar energy facility or the restoration of the~~
22 ~~roads used by the facility owner during construction-related~~
23 ~~activities.~~

24 ~~(s 5) The facility owner shall also compensate landowners~~
25 ~~for crop losses or other agricultural damages resulting from~~
26 ~~damage to the drainage system caused by the construction of~~

~~the commercial wind energy facility or the commercial solar energy facility. The commercial wind energy facility owner or commercial solar energy facility owner shall repair or pay for the repair of all damage to the subsurface drainage system caused by the construction of the commercial wind energy facility or the commercial solar energy facility in accordance with the agriculture impact mitigation agreement requirements for repair of drainage. The commercial wind energy facility owner or commercial solar energy facility owner shall repair or pay for the repair and restoration of surface drainage caused by the construction or deconstruction of the commercial wind energy facility or the commercial solar energy facility as soon as reasonably practicable.~~

~~(t) Notwithstanding any other provision of law, a facility owner with siting approval from a county to construct a commercial wind energy facility or a commercial solar energy facility is authorized to cross or impact a drainage system, including, but not limited to, drainage tiles, open drainage ditches, culverts, and water gathering vaults, owned or under the control of a drainage district under the Illinois Drainage Code without obtaining prior agreement or approval from the drainage district in accordance with the farmland drainage plan required by subsection (j-5).~~

~~(u) The amendments to this Section adopted in Public Act 102-1123 do not apply to: (1) an application for siting approval or for a special use permit for a commercial wind~~

~~energy facility or commercial solar energy facility if the application was submitted to a unit of local government before January 27, 2023 (the effective date of Public Act 102-1123); (2) a commercial wind energy facility or a commercial solar energy facility if the facility owner has submitted an agricultural impact mitigation agreement to the Department of Agriculture before January 27, 2023 (the effective date of Public Act 102-1123); (3) a commercial wind energy or commercial solar energy development on property that is located within an enterprise zone certified under the Illinois Enterprise Zone Act, that was classified as industrial by the appropriate zoning authority on or before January 27, 2023, and that is located within 4 miles of the intersection of Interstate 88 and Interstate 39; or (4) a commercial wind energy or commercial solar energy development on property in Madison County that is located within the area that has as its northern boundary the portion of Drexelius Road that is between the intersection of Drexelius Road and Wolf Road and the intersection of Drexelius Road and Fosterburg Road, that has as its eastern boundary the portion of Fosterburg Road that is between the intersection of Fosterburg Road and Drexelius Road and the intersection of Fosterburg Road and Wolf Road, and that has as its southern and western boundaries the portion of Wolf Road that is between the intersection of Fosterburg Road and Wolf Road and the intersection of Drexelius Road and Wolf Road.~~

1 (Source: P.A. 103-81, eff. 6-9-23; 103-580, eff. 12-8-23;
2 1014-417, eff. 8-15-25; 104-458, eff. 6-1-26.)

3 Section 95. No acceleration or delay. Where this Act makes
4 changes in a statute that is represented in this Act by text
5 that is not yet or no longer in effect (for example, a Section
6 represented by multiple versions), the use of that text does
7 not accelerate or delay the taking effect of (i) the changes
8 made by this Act or (ii) provisions derived from any other
9 Public Act.