

**104TH GENERAL ASSEMBLY****State of Illinois****2025 and 2026****SB3585**

Introduced 2/5/2026, by Sen. Sue Rezin

**SYNOPSIS AS INTRODUCED:**

55 ILCS 5/5-12020

55 ILCS 5/5-12024

Amends the Counties Code. Provides that a county may not approve the siting of a commercial wind energy facility, a commercial solar energy facility, an energy storage facility, or a combination thereof in an unincorporated area that is located within a 3-mile radius of a municipality, if: (1) the municipality has not approved the siting of the facility or facilities at that location; (2) the county board or the corporate authorities of the municipality have determined that any portion of the facility or facilities will be located on land with a Soil Productivity Index that is greater than or equal to 90; or (3) the county board or the corporate authorities of the municipality have determined that the owners or operators of the facility or facilities have failed to comply with one or more National Pollutant Discharge Elimination System (NPDES) requirements for the site. Provides that the provisions apply regardless of whether the municipality has adopted zoning ordinances or is regulating wind farms and electric-generating wind devices under specified provisions of the Illinois Municipal Code. Requires each commercial solar energy facility to have the minimum number of fire hydrants required by ordinances governing the servicing fire department or fire protection district or, if there are no requirements by ordinances governing the servicing fire department or fire protection district, then the minimum number required by the county board. Allows a county to require a commercial solar energy facility to be sited at least 500 feet to the nearest point on the property line of the nonparticipating zoned residential. Provides that a county shall require an energy storage system to be sited at least 500 feet to the nearest point on the property line of the nonparticipating zoned residential. Effective January 1, 2027.

LRB104 18639 RTM 32082 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 Counties Code is amended by changing  
5 Sections 5-12020 and 5-12024 as follows:

6 (55 ILCS 5/5-12020)

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

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

10 (a) As used in this Section:

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

19 "Commercial wind energy facility" means a wind energy  
20 conversion facility of equal or greater than 500 kilowatts in  
21 total nameplate generating capacity. "Commercial wind energy  
22 facility" includes a wind energy conversion facility seeking  
23 an extension of a permit to construct granted by a county or

1 municipality before January 27, 2023 (the effective date of  
2 Public Act 102-1123).

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

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

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

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

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

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

16 "Protected lands" means real property that is:

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

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

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

1 or commercial solar energy facility.

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

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

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

1 with the Open Meetings Act and shall be held not more than 60  
2 days after the filing of the application for the facility. The  
3 county shall allow interested parties to a special use permit  
4 an opportunity to present evidence and to cross-examine  
5 witnesses 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 after the  
12 conclusion of the public hearing. Notice of the hearing shall  
13 be published in a newspaper of general circulation in the  
14 county. A facility owner must enter into an agricultural  
15 impact mitigation agreement with the Department of Agriculture  
16 prior to the date of the required public hearing. A commercial  
17 wind energy facility owner seeking an extension of a permit  
18 granted by a county prior to July 24, 2015 (the effective date  
19 of Public Act 99-132) must enter into an agricultural impact  
20 mitigation agreement with the Department of Agriculture prior  
21 to a decision by the county to grant the permit extension.  
22 Counties may allow test wind towers or test solar energy  
23 systems to be sited without formal approval by the county  
24 board.

25 (d) A county with an existing zoning ordinance in conflict  
26 with this Section shall amend that zoning ordinance to be in

1 compliance with this Section within 120 days after January 27,  
 2 2023 (the effective date of Public Act 102-1123).

3 (e) A county may require:

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

7 Setback Description	Setback Distance
8 Occupied Community 9 Buildings 10 11	2.1 times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure
12 Participating Residences 13 14 15	1.1 times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure
16 Nonparticipating Residences 17 18 19	2.1 times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure
20 Boundary Lines of 21 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

1 Preserve Commission to the nearest point on the  
 2 Protected Lands property line of the fish and  
 3 wildlife area or protected  
 4 land

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

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

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

20 Setback Description	Setback Distance
21 Occupied Community 22 Buildings and Dwellings on 23 Nonparticipating Properties	150 feet from the nearest point on the outside wall of the structure

1	Boundary Lines of	None
2	Participating Property	
3	Public Road Rights-of-Way	50 feet from the nearest
4		edge
5	Boundary Lines of	50 feet to the nearest
6	Nonparticipating Property	point on the property
7		line of the nonparticipating
8		property

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

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

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

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

1 Pollution Control Board under 35 Ill. Adm. Code Parts 900,  
2 901, and 910.

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

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

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

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

1 county with similar capital value and cost.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (s) If a facility owner enters into a road use agreement

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

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

1 related to the cost of administration of the road use  
2 agreement.

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

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

1 drainage district in accordance with the farmland drainage  
2 plan required by subsection (j-5).

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

20 (Source: P.A. 103-81, eff. 6-9-23; 103-580, eff. 12-8-23;  
21 104-417, eff. 8-15-25.)

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

23 Sec. 5-12020. 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 commercial wind energy facilities, commercial solar energy  
25 facilities, or both. The standards may include all of the  
26 requirements specified in this Section but may not include

1 requirements for commercial wind energy facilities or  
2 commercial solar energy facilities that are more restrictive  
3 than specified in this Section. A county may also regulate the  
4 siting of commercial wind energy facilities with standards  
5 that are not more restrictive than the requirements specified  
6 in this Section in unincorporated areas of the county that are  
7 outside the zoning jurisdiction of a municipality and that are  
8 outside the 1.5-mile radius surrounding the zoning  
9 jurisdiction of a municipality. A county may also regulate the  
10 siting of commercial solar energy facilities with standards  
11 that are not more restrictive than the requirements specified  
12 in this Section in unincorporated areas of the county that are  
13 outside of the zoning jurisdiction of a municipality.

14 (b-5) A county may not approve the siting of a commercial  
15 wind energy facility, a commercial solar energy facility, an  
16 energy storage facility, or a combination thereof in an  
17 unincorporated area that is located within a 3-mile radius of  
18 a municipality, if:

19 (1) the municipality has not approved the siting of  
20 the facility or facilities at that location;

21 (2) the county board or the corporate authorities of  
22 the municipality have determined that any portion of the  
23 facility or facilities will be located on land with a Soil  
24 Productivity Index that is greater than or equal to 90; or

25 (3) the county board or the corporate authorities of  
26 the municipality have determined that the owners or

1 operators of the facility or facilities have failed to  
2 comply with one or more National Pollutant Discharge  
3 Elimination System (NPDES) requirements for the site.

4 This subsection applies regardless of whether the  
5 municipality has adopted zoning ordinances under Division 13  
6 of Article 11 of the Illinois Municipal Code or is regulating  
7 wind farms and electric-generating wind devices under Section  
8 11-13-26 of the Illinois Municipal Code.

9 (c) If a county has elected to establish standards under  
10 subsection (b), before the county grants siting approval or a  
11 special use permit for a commercial wind energy facility or a  
12 commercial solar energy facility, or modification of an  
13 approved siting or special use permit, the county board of the  
14 county in which the facility is to be sited or the zoning board  
15 of appeals for the county shall hold at least one public  
16 hearing. The public hearing shall be conducted in accordance  
17 with the Open Meetings Act and shall conclude not more than 60  
18 days after the filing of the application for the facility. The  
19 county shall allow interested parties to a special use permit  
20 an opportunity to present evidence and to cross-examine  
21 witnesses at the hearing, but the county may impose reasonable  
22 restrictions on the public hearing, including reasonable time  
23 limitations on the presentation of evidence and the  
24 cross-examination of witnesses. The county shall also allow  
25 public comment at the public hearing in accordance with the  
26 Open Meetings Act. The county shall make its siting and

1 permitting decisions not more than 30 days after the  
 2 conclusion of the public hearing. Notice of the hearing shall  
 3 be published in a newspaper of general circulation in the  
 4 county. A facility owner must enter into an agricultural  
 5 impact mitigation agreement with the Department of Agriculture  
 6 prior to the date of the required public hearing. A commercial  
 7 wind energy facility owner seeking an extension of a permit  
 8 granted by a county prior to July 24, 2015 (the effective date  
 9 of Public Act 99-132) must enter into an agricultural impact  
 10 mitigation agreement with the Department of Agriculture prior  
 11 to a decision by the county to grant the permit extension.  
 12 Counties may allow test wind towers or test solar energy  
 13 systems to be sited without formal approval by the county  
 14 board.

15 (d) A county with an existing zoning ordinance in conflict  
 16 with this Section shall amend that zoning ordinance to be in  
 17 compliance with this Section within 120 days after January 27,  
 18 2023 (the effective date of Public Act 102-1123).

19 (e) A county may require:

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

23	Setback Description	Setback Distance
24	Occupied Community	2.1 times the maximum blade tip

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

1 public road right-of-way

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

9 Overhead Utility Service None  
10 Lines to Individual  
11 Houses or Outbuildings

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

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

1           (2) a wind tower of a commercial wind energy facility  
 2           to be sited so that industry standard computer modeling  
 3           indicates that any occupied community building or  
 4           nonparticipating residence will not experience more than  
 5           30 hours per year of shadow flicker under planned  
 6           operating conditions;

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

11	Setback Description	Setback Distance
12	Occupied Community	150 feet from the nearest
13	Buildings and Dwellings on	point on the outside wall
14	Nonparticipating Properties	of the structure
15	Boundary Lines of	None
16	Participating Property	
17	Public Road Rights-of-Way	50 feet from the nearest
18		edge of the public
19		right-of-way
20	Boundary Lines of	50 feet to the nearest
21	Nonparticipating Property	point on the property

1 Not Zoned Residential line of the nonparticipating  
 2 property

3 Boundary Lines of 500 feet to the nearest  
 4 Nonparticipating Property point on the property  
 5 Zoned Residential line of the nonparticipating  
 6 property zoned residential

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

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

15 This subsection (e) shall not preclude the ability of a  
 16 county to require a reasonable setback distance between  
 17 fencing and public rights-of-way if the requirement is not  
 18 specific to commercial wind energy facilities or commercial  
 19 solar energy facilities and does not preclude the development  
 20 of commercial wind energy facilities or commercial solar  
 21 energy facilities or the ability of commercial wind energy  
 22 facilities or commercial solar energy facilities to comply  
 23 with the requirements set forth in this subsection (e).

24 The requirements set forth in this subsection (e) may be

1 waived subject to the written consent of the owner of each  
2 affected nonparticipating property.

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

1 the residence.

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

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

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

1 (h) A county may not adopt zoning regulations that  
2 disallow, permanently or temporarily, commercial wind energy  
3 facilities or commercial solar energy facilities from being  
4 developed or operated in any district zoned to allow  
5 agricultural or industrial uses.

6 (i) (Blank).

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

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

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

12 (j) Except as otherwise provided in this Section, a county  
13 shall not require standards for construction, decommissioning,  
14 or deconstruction of a commercial wind energy facility or  
15 commercial solar energy facility or related financial  
16 assurances that are more restrictive than those included in  
17 the Department of Agriculture's standard wind farm  
18 agricultural impact mitigation agreement, template 81818, or  
19 standard solar agricultural impact mitigation agreement,  
20 version 8.19.19, as applicable and in effect on December 31,  
21 2022. The amount of any decommissioning payment shall be in  
22 accordance with the financial assurance required by those  
23 agricultural impact mitigation agreements.

24 (j-5) A commercial wind energy facility or a commercial  
25 solar energy facility shall file a farmland drainage plan with  
26 the county and impacted drainage districts outlining how

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

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

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

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

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

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

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

21 (2) (blank).

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

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

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

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

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

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

1 comply with the requirements of the underlying agreement with  
2 the landowner or landowners where the facility will be  
3 constructed.

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

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

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

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

25 (s-5) The facility owner shall also compensate landowners  
26 for crop losses or other agricultural damages resulting from

1 damage to the drainage system caused by the construction of  
2 the commercial wind energy facility or the commercial solar  
3 energy facility. The commercial wind energy facility owner or  
4 commercial solar energy facility owner shall repair or pay for  
5 the repair of all damage to the subsurface drainage system  
6 caused by the construction of the commercial wind energy  
7 facility or the commercial solar energy facility in accordance  
8 with the agriculture impact mitigation agreement requirements  
9 for repair of drainage. The commercial wind energy facility  
10 owner or commercial solar energy facility owner shall repair  
11 or pay for the repair and restoration of surface drainage  
12 caused by the construction or deconstruction of the commercial  
13 wind energy facility or the commercial solar energy facility  
14 as soon as reasonably practicable.

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

25 (u) The amendments to this Section adopted in Public Act  
26 102-1123 do not apply to: (1) an application for siting

1 approval or for a special use permit for a commercial wind  
2 energy facility or commercial solar energy facility if the  
3 application was submitted to a unit of local government before  
4 January 27, 2023 (the effective date of Public Act 102-1123);  
5 (2) a commercial wind energy facility or a commercial solar  
6 energy facility if the facility owner has submitted an  
7 agricultural impact mitigation agreement to the Department of  
8 Agriculture before January 27, 2023 (the effective date of  
9 Public Act 102-1123); (3) a commercial wind energy or  
10 commercial solar energy development on property that is  
11 located within an enterprise zone certified under the Illinois  
12 Enterprise Zone Act, that was classified as industrial by the  
13 appropriate zoning authority on or before January 27, 2023,  
14 and that is located within 4 miles of the intersection of  
15 Interstate 88 and Interstate 39; or (4) a commercial wind  
16 energy or commercial solar energy development on property in  
17 Madison County that is located within the area that has as its  
18 northern boundary the portion of Drexelius Road that is  
19 between the intersection of Drexelius Road and Wolf Road and  
20 the intersection of Drexelius Road and Fosterburg Road, that  
21 has as its eastern boundary the portion of Fosterburg Road  
22 that is between the intersection of Fosterburg Road and  
23 Drexelius Road and the intersection of Fosterburg Road and  
24 Wolf Road, and that has as its southern and western boundaries  
25 the portion of Wolf Road that is between the intersection of  
26 Fosterburg Road and Wolf Road and the intersection of

1 Drexelius Road and Wolf Road.

2 (Source: P.A. 103-81, eff. 6-9-23; 103-580, eff. 12-8-23;  
3 104-417, eff. 8-15-25; 104-458, eff. 6-1-26.)

4 (55 ILCS 5/5-12024)

5 (This Section may contain text from a Public Act with a  
6 delayed effective date)

7 Sec. 5-12024. Energy storage systems.

8 (a) As used in this Section:

9 "Energy storage system" means a facility with an aggregate  
10 energy capacity that is greater than 1,000 kilowatts and that  
11 is capable of absorbing energy and storing it for use at a  
12 later time, including, but not limited to, electrochemical and  
13 electromechanical technologies. "Energy storage system" does  
14 not include technologies that require combustion. "Energy  
15 storage system" also does not include energy storage systems  
16 associated with commercial solar energy facilities or  
17 commercial wind energy facilities as defined in Section  
18 5-12020.

19 "Excused service interruption" means any period during  
20 which an energy storage system does not store or discharge  
21 electricity and that is planned or reasonably foreseeable for  
22 standard commercial operation, including any unavailability  
23 caused by a buyer; storage capacity tests; system emergencies;  
24 curtailments, including curtailment orders; transmission  
25 system outages; compliance with any operating restriction;

1 serial defects; and planned outages.

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

12 "Force majeure" means any event or circumstance that  
13 delays or prevents an energy storage system from timely  
14 performing all or a portion of its commercial operations if  
15 the act or event, despite the exercise of commercially  
16 reasonable efforts, cannot be avoided by and is beyond the  
17 reasonable control, whether direct or indirect, of, and  
18 without the fault or negligence of, a facility owner or  
19 operator or any of its assignees. "Force majeure" includes,  
20 but is not limited to:

21 (1) fire, flood, tornado, or other natural disasters  
22 or acts of God;

23 (2) war, civil strife, terrorist attack, or other  
24 similar acts of violence;

25 (3) unavailability of materials, equipment, services,  
26 or labor, including unavailability due to global supply

1 chain shortages;

2 (4) utility or energy shortages or acts or omissions  
3 of public utility providers;

4 (5) any delay resulting from a pandemic, epidemic, or  
5 other public health emergency or related restrictions; and

6 (6) litigation or a regulatory proceeding regarding a  
7 facility.

8 "NFPA" means the National Fire Protection Association.

9 "Nonparticipating property" means real property that is  
10 not a participating property.

11 "Nonparticipating residence" means a residence that is  
12 located on nonparticipating property and that exists and is  
13 occupied on the date that the application for a permit to  
14 develop an energy storage system is filed with the county.

15 "Occupied community building" means a school, place of  
16 worship, day care facility, public library, or community  
17 center that is occupied on the date that the application for a  
18 permit to develop an energy storage system is filed with the  
19 county in which the building is located.

20 "Participating property" means real property that is the  
21 subject of a written agreement between a facility owner and  
22 the owner of the real property and that provides the facility  
23 owner an easement, option, lease, or license to use the real  
24 property for the purpose of constructing an energy storage  
25 system or supporting facilities.

26 "Protected lands" means real property that is: (i) subject

1 to a permanent conservation right consistent with the Real  
2 Property Conservation Rights Act; or (ii) registered or  
3 designated as a nature preserve, buffer, or land and water  
4 reserve under the Illinois Natural Areas Preservation Act.

5 "Supporting facilities" means the transmission lines,  
6 substations, switchyard, access roads, meteorological towers,  
7 storage containers, and equipment associated with the  
8 generation, storage, and dispatch of electricity by an energy  
9 storage system.

10 (b) Notwithstanding any other provision of law, if a  
11 county has formed a zoning commission and adopted formal  
12 zoning under Section 5-12007, then a county may establish  
13 standards for energy storage systems in areas of the county  
14 that are not within the zoning jurisdiction of a municipality.  
15 The standards may include all of the requirements specified in  
16 this Section but may not include requirements for energy  
17 storage systems that are more restrictive than specified in  
18 this Section or requirements that are not specified in this  
19 Section.

20 (c) A county may require the energy storage facility to  
21 comply with the version of NFPA 855 "Standard for the  
22 Installation of Stationary Energy Storage Systems" in effect  
23 on the effective date of this amendatory Act or any successor  
24 standard issued by the NFPA in effect on the date of siting or  
25 special use permit approval. A county may not include  
26 requirements for energy storage systems that are more

1 restrictive than NFPA 855 "Standard for the Installation of  
2 Stationary Energy Storage Systems" unless required by this  
3 Section.

4 (d) If a county has elected to establish standards under  
5 subsection (b), then the zoning board of appeals for the  
6 county shall hold at least one public hearing before the  
7 county grants (i) siting approval or a special use permit for  
8 an energy storage system or (ii) modification of an approved  
9 siting or special use permit. The public hearing shall be  
10 conducted in accordance with the Open Meetings Act and shall  
11 conclude not more than 60 days after the filing of the  
12 application for the facility. The county shall allow  
13 interested parties to a special use permit an opportunity to  
14 present evidence and to cross-examine witnesses at the  
15 hearing, but the county may impose reasonable restrictions on  
16 the public hearing, including reasonable time limitations on  
17 the presentation of evidence and the cross-examination of  
18 witnesses. The county shall also allow public comment at the  
19 public hearing in accordance with the Open Meetings Act. The  
20 county shall make its siting and permitting decisions not more  
21 than 30 days after the conclusion of the public hearing.  
22 Notice of the hearing shall be published in a newspaper of  
23 general circulation in the county.

24 (e) A county with an existing zoning ordinance in conflict  
25 with this Section shall amend that zoning ordinance to comply  
26 with this Section within 120 days after the effective date of

1 this amendatory Act of the 104th General Assembly.

2 (f) A county shall require an energy storage system to be  
 3 sited as follows, with setback distances measured from the  
 4 nearest edge of the nearest battery or other electrochemical  
 5 or electromechanical enclosure:

6 Setback Description	Setback Distance
7 Occupied Community 8 Buildings and 9 Nonparticipating Residences 10	150 feet from the nearest point of the outside wall of the occupied community building or nonparticipating residence
11 Boundary Lines of 12 Occupied Community 13 Buildings and 14 Nonparticipating Residences 15 <u>Not Zoned Residential</u>	50 feet to the nearest point on the property line of the occupied community building or nonparticipating property
16 <u>Boundary Lines of</u> 17 <u>Nonparticipating Property</u> 18 <u>Zoned Residential</u> 19	<u>500 feet to the nearest</u> <u>point on the property</u> <u>line of the nonparticipating</u> <u>property zoned residential</u>
20 Public Road Rights-of-Way 21	50 feet from the nearest edge of the right-of-way

1           (2) A county shall also require an energy storage  
2           system to be sited so that the facility's perimeter is  
3           enclosed by fencing having a height of at least 7 feet and  
4           no more than 25 feet.

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

10          (g) A county may not set a sound limitation for energy  
11          storage systems that is more restrictive than the sound  
12          limitations established by the Illinois Pollution Control  
13          Board under 35 Ill. Adm. Code Parts 900, 901, and 910. After  
14          commercial operation, a county may require the facility owner  
15          to provide, not more than once, octave band sound pressure  
16          level measurements from a reasonable number of sampled  
17          locations at the perimeter of the energy storage system to  
18          demonstrate compliance with this Section.

19          (h) The provisions set forth in subsection (f) may be  
20          waived subject to the written consent of the owner of each  
21          affected nonparticipating property or nonparticipating  
22          residence.

23          (i) A county may not place any restriction on the  
24          installation or use of an energy storage system unless it has  
25          formed a zoning commission and adopted formal zoning under  
26          Section 5-12007 and adopts an ordinance that complies with

1 this Section. A county may not establish siting standards for  
2 supporting facilities that preclude development of an energy  
3 storage system.

4 (j) A request for siting approval or a special use permit  
5 for an energy storage system, or modification of an approved  
6 siting approval or special use permit, shall be approved if  
7 the request complies with the standards and conditions imposed  
8 in this Code, the zoning ordinance adopted consistent with  
9 this Section, and other State and federal statutes and  
10 regulations. The siting approval or special use permit  
11 approved by the county shall grant the facility owner a period  
12 of at least 3 years after county approval to obtain a building  
13 permit or commence construction of the energy storage system,  
14 before the siting approval or special use permit may become  
15 subject to revocation by the county. Facility owners may be  
16 granted an extension on obtaining building permits or  
17 commencing constructing upon a showing of good cause. A  
18 facility owner's request for an extension may not be  
19 unreasonably withheld, conditioned, or denied.

20 (k) A county may not adopt zoning regulations that  
21 disallow, permanently or temporarily, an energy storage system  
22 from being developed or operated in any district zones to  
23 allow agricultural or industrial uses.

24 (l) A facility owner shall file a farmland drainage plan  
25 with the county and impacted drainage districts that outlines  
26 how surface and subsurface drainage of farmland will be

1 restored during and following the construction or  
2 deconstruction of the energy storage system. The plan shall be  
3 created independently by the facility owner and shall include  
4 the location of any potentially impacted drainage district  
5 facilities to the extent the information is publicly available  
6 from the county or the drainage district and plans to repair  
7 any subsurface drainage affected during construction or  
8 deconstruction using procedures outlined in the  
9 decommissioning plan. All surface and subsurface damage shall  
10 be repaired as soon as reasonably practicable.

11 (m) A facility owner shall compensate landowners for crop  
12 losses or other agricultural damages resulting from damage to  
13 a drainage system caused by the construction of an energy  
14 storage system. The facility owner shall repair or pay for the  
15 repair of all damage to the subsurface drainage system caused  
16 by the construction of the energy storage system. The facility  
17 owner shall repair or pay for the repair and restoration of  
18 surface drainage caused by the construction or deconstruction  
19 of the energy storage facility as soon as reasonably  
20 practicable.

21 (n) County siting approval or special use permit  
22 application fees for an energy storage system shall not exceed  
23 the lesser of (i) \$5,000 per each megawatt of nameplate  
24 capacity of the energy storage system or (ii) \$50,000.

25 (o) The county may require a facility owner to provide a  
26 decommissioning plan to the county. The decommissioning plan

1 may include all requirements for decommissioning plans in NFPA  
2 855 and may also require the facility owner to:

3 (1) state how the energy storage system will be  
4 decommissioned, including removal to a depth of 3 feet of  
5 all structures that have no ongoing purpose and all debris  
6 and restoration of the soil and any vegetation to a  
7 condition as close as reasonably practicable to the soil's  
8 and vegetation's preconstruction condition within 18  
9 months of the end of project life or facility abandonment;

10 (2) include provisions related to commercially  
11 reasonable efforts to reuse or recycle of equipment and  
12 components associated with the commercial offsite energy  
13 storage system;

14 (3) include financial assurance in the form of a  
15 reclamation or surety bond or other commercially available  
16 financial assurance that is acceptable to the county, with  
17 the county or participating property owner as beneficiary.  
18 The amount of the financial assurance shall not be more  
19 than the estimated cost of decommissioning the energy  
20 facility, after deducting salvage value, as calculated by  
21 a professional engineer licensed to practice engineering  
22 in this State with expertise in preparing decommissioning  
23 estimates, retained by the applicant. The financial  
24 assurance shall be provided to the county incrementally as  
25 follows:

26 (A) 25% before the start of full commercial

1 operation;

2 (B) 50% before the start of the 5th year of  
3 commercial operation; and

4 (C) 100% by the start of the tenth year of  
5 commercial operation;

6 (4) update the amount of the financial assurance not  
7 more than every 5 years for the duration of commercial  
8 operations. The amount shall be calculated by a  
9 professional engineer licensed to practice engineering in  
10 this State with expertise in decommissioning, hired by the  
11 facility owner; and

12 (5) decommission the energy storage system, in  
13 accordance with an approved decommissioning plan, within  
14 18 months after abandonment. An energy storage system that  
15 has not stored electrical energy for 12 consecutive months  
16 or that fails, for a period of 6 consecutive months, to pay  
17 a property owner who is party to a written agreement,  
18 including, but not limited to, an easement, option, lease,  
19 or license under the terms of which an energy storage  
20 system is constructed on the property, amounts owed in  
21 accordance with the written agreement shall be considered  
22 abandoned, except when the inability to store energy is  
23 the result of an event of force majeure or excused service  
24 interruption.

25 (p) A county may not condition approval of an energy  
26 storage system on a property value guarantee and may not

1 require a facility owner to pay into a neighboring property  
2 devaluation escrow account.

3 (q) A county may require that a facility owner provide the  
4 results and recommendations from consultation with the  
5 Department of Natural Resources that are obtained through the  
6 Ecological Compliance Assessment Tool (EcoCAT) or a comparable  
7 successor tool.

8 (r) A county may require an energy storage system to  
9 adhere to the recommendations provided by the Department of  
10 Natural Resources in an Agency Action Report under 17 Ill.  
11 Adm. Code 1075.

12 (s) A county may require a facility owner to:

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

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

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

25 (u) A county may require that an application for siting  
26 approval or special use permit include the following

1 information on a site plan:

2 (1) a description of the property lines and physical  
3 features, including roads, for the facility site;

4 (2) a description of the proposed changes to the  
5 landscape of the facility site, including vegetation  
6 clearing and planting, exterior lighting, and screening or  
7 structures; and

8 (3) a description of the zoning district designation  
9 for the parcel of land comprising the facility site.

10 (v) A county may not prohibit an energy storage system  
11 from undertaking periodic augmentation to maintain the  
12 approximate original capacity of the energy storage system. A  
13 county may not require renewed or additional siting approval  
14 or special use permit approval of periodic augmentation to  
15 maintain the approximate original capacity of the energy  
16 storage system.

17 (w) A county that issues a building permit for energy  
18 storage systems shall review and process building permit  
19 applications within 60 days after receipt of the building  
20 permit application. If a county does not grant or deny the  
21 building permit application within 60 days, the building  
22 permit shall be deemed granted. If a county denies a building  
23 permit application, it shall specify the reason for the denial  
24 in writing as part of its denial.

25 (x) A county may require a single building permit and a  
26 reasonable permit fee for the facility which includes all

1 supporting facilities. A county building permit fee for an  
2 energy storage system that does not exceed the lesser of (i)  
3 \$5,000 per each megawatt of nameplate capacity of the energy  
4 storage system or (ii) \$50,000 shall be considered  
5 presumptively reasonable. A county may require that the  
6 application for building permit contain:

7 (1) an electrical diagram detailing the battery energy  
8 storage system layout, associated components, and  
9 electrical interconnection methods, with all National  
10 Electrical Code compliant disconnects and overcurrent  
11 devices; and

12 (2) an equipment specification sheet.

13 (y) A county may require the facility owner to submit to  
14 the county prior to the facility's commercial operation a  
15 commissioning report meeting the requirements of NFPA 855  
16 Sections 4.2.4, 6.1.3, and 6.1.5.5, as published in 2023, or  
17 the applicable Sections in the most recent version of NFPA  
18 855.

19 (z) A county may require the facility owner to submit to  
20 the county prior to the facility's commercial operation a  
21 hazard mitigation analysis meeting the requirements of NFPA  
22 855 Section 4.4 or the applicable Sections in the most recent  
23 version of NFPA 855.

24 (aa) A county may require the facility owner to submit to  
25 the county an emergency operations plan meeting the  
26 requirements of NFPA 855 Section 4.3.2.1.4, published in 2023,

1 or applicable Sections in the most recent version of NFPA 855,  
2 prior to commercial operation.

3 (bb) A county may require a warning that complies with  
4 requirements in NFPA 855 Section 4.7.4, published in 2023, or  
5 applicable sections in the most recent version of NFPA 855.

6 (cc) A county may require the energy storage system to  
7 adhere to the principles for responsible outdoor lighting  
8 provided by the International Dark-Sky Association and shall  
9 limit outdoor lighting to that which is minimally required for  
10 safety and operational purposes. Any outdoor lighting shall be  
11 reasonably shielded and downcast from all residences and  
12 adjacent properties.

13 (dd) This Section does not exempt compliance with fire and  
14 safety standards and guidance established for the installation  
15 of lithium-ion battery energy storage systems set by the NFPA.

16 (ee) Prior to commencement of commercial operation, the  
17 facility owner shall offer to provide training for local fire  
18 departments and emergency responders in accordance with the  
19 facility emergency operations plan. A copy of the emergency  
20 operations plan shall be given to the facility owner, the  
21 local fire department, and emergency responders. All batteries  
22 integrated within an energy storage system shall be listed  
23 under the UL 1973 Standard. All batteries integrated within an  
24 energy storage system shall be listed in accordance with UL  
25 9540 Standard, either from the manufacturer or by a field  
26 evaluation.

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

17 The road use agreement shall not require the facility  
18 owner to pay costs, fees, or charges for road work that is not  
19 specifically and uniquely attributable to the construction of  
20 the energy storage system. No road district or other unit of  
21 local government may request or require a fine, permit fee, or  
22 other payment obligation as a requirement for a road use  
23 agreement with a facility owner unless the amount of the fine,  
24 permit fee, or other payment obligation is equivalent to the  
25 amount of actual expenses incurred by the road district or  
26 other unit of local government for negotiating, executing,

1 constructing, or implementing the road use agreement. The road  
2 use agreement shall not require the facility owner to perform  
3 or pay for any road work that is unrelated to the road  
4 improvements required for the construction of the commercial  
5 wind energy facility or the commercial solar energy facility  
6 or the restoration of the roads used by the facility owner  
7 during construction-related activities.

8 (gg) The provisions of this amendatory Act of the 104th  
9 General Assembly do not apply to an application for siting  
10 approval or special use permit for an energy storage system if  
11 the application was submitted to a county before the effective  
12 date of this amendatory Act of the 104th General Assembly.

13 (Source: P.A. 104-458, eff. 6-1-26.)

14 Section 95. No acceleration or delay. Where this Act makes  
15 changes in a statute that is represented in this Act by text  
16 that is not yet or no longer in effect (for example, a Section  
17 represented by multiple versions), the use of that text does  
18 not accelerate or delay the taking effect of (i) the changes  
19 made by this Act or (ii) provisions derived from any other  
20 Public Act.

21 Section 99. Effective date. This Act takes effect January  
22 1, 2027.