

1 AN ACT concerning agriculture.

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 Section
5 5-12020 as follows:

6 (55 ILCS 5/5-12020)

7 Sec. 5-12020. Wind farms. Notwithstanding any other
8 provision of law, a county may establish standards for wind
9 farms and electric-generating wind devices. The standards may
10 include, without limitation, the height of the devices and the
11 number of devices that may be located within a geographic area.
12 A county may also regulate the siting of wind farms and
13 electric-generating wind devices in unincorporated areas of
14 the county outside of the zoning jurisdiction of a municipality
15 and the 1.5 mile radius surrounding the zoning jurisdiction of
16 a municipality. There shall be at least one public hearing not
17 more than 30 days prior to a siting decision by the county
18 board. Notice of the hearing shall be published in a newspaper
19 of general circulation in the county. A commercial wind energy
20 facility owner, as defined in the Renewable Wind 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

1 public hearing. A commercial wind energy facility owner seeking
2 an extension of a permit granted by a county prior to July 24,
3 2015 (the effective date of Public Act 99-132) must enter into
4 an agricultural impact mitigation agreement with the
5 Department of Agriculture prior to a decision by the county to
6 grant the permit extension. Counties may allow test wind towers
7 to be sited without formal approval by the county board. Any
8 provision of a county zoning ordinance pertaining to wind farms
9 that is in effect before August 16, 2007 (the effective date of
10 Public Act 95-203) may continue in effect notwithstanding any
11 requirements of this Section.

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

16 (Source: P.A. 99-123, eff. 1-1-16; 99-132, eff. 7-24-15;
17 99-642, eff. 7-28-16.)

18 Section 10. The Illinois Municipal Code is amended by
19 changing Section 11-13-26 as follows:

20 (65 ILCS 5/11-13-26)

21 Sec. 11-13-26. Wind farms. Notwithstanding any other
22 provision of law:

23 (a) A municipality may regulate wind farms and
24 electric-generating wind devices within its zoning

jurisdiction and within the 1.5 mile radius surrounding its zoning jurisdiction. There shall be at least one public hearing not more than 30 days prior to a siting decision by the corporate authorities of a municipality. Notice of the hearing shall be published in a newspaper of general circulation in the municipality. A commercial wind energy facility owner, as defined in the Renewable Wind Energy Facilities Agricultural Impact Mitigation Act, must enter into an agricultural impact mitigation agreement with the Department of Agriculture prior to the date of the required public hearing. A commercial wind energy facility owner seeking an extension of a permit granted by a municipality prior to July 24, 2015 (the effective date of Public Act 99-132) must enter into an agricultural impact mitigation agreement with the Department of Agriculture prior to a decision by the municipality to grant the permit extension. A municipality may allow test wind towers to be sited without formal approval by the corporate authorities of the municipality. Test wind towers must be dismantled within 3 years of installation. For the purposes of this Section, "test wind towers" are wind towers that are designed solely to collect wind generation data.

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

line. A setback requirement imposed by a municipality on a renewable energy system may not be more restrictive than as provided under this subsection. This subsection is a limitation of home rule powers and functions under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

(Source: P.A. 99-123, eff. 1-1-16; 99-132, eff. 7-24-15; 99-642, eff. 7-28-16.)

Section 15. The Wind Energy Facilities Agricultural Impact Mitigation Act is amended by changing Sections 1, 5, 10, and 15 as follows:

(505 ILCS 147/1)

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

(Source: P.A. 99-132, eff. 7-24-15.)

(505 ILCS 147/5)

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

(Source: P.A. 99-132, eff. 7-24-15.)

(505 ILCS 147/10)

Sec. 10. Definitions. As used in this Act:

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

"Abandonment of a commercial solar energy facility" means when deconstruction has not been completed within 12 months after the commercial solar energy facility reaches the end of its useful life. For purposes of this definition, a commercial solar energy facility shall be presumed to have reached the end of its useful life if the commercial solar energy facility owner fails, for a period of 6 consecutive months, to pay the landowner amounts owed in accordance with the underlying agreement.

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

"Commercial renewable energy facility" means a commercial

1 wind energy facility or commercial solar energy facility as
2 defined in this Act.

3 "Commercial solar energy facility" means a solar energy
4 conversion facility equal to or greater than 500 kilowatts in
5 total nameplate capacity, including a solar energy conversion
6 facility seeking an extension of a permit to construct granted
7 by a county or municipality before the effective date of this
8 amendatory Act of the 100th General Assembly. "Commercial solar
9 energy facility" does not include a solar energy conversion
10 facility: (1) for which a permit to construct has been issued
11 before the effective date of this amendatory Act of the 100th
12 General Assembly; (2) that is located on land owned by the
13 commercial solar energy facility owner; (3) that was
14 constructed before the effective date of this amendatory Act of
15 the 100th General Assembly; or (4) that is located on the
16 customer side of the customer's electric meter and is primarily
17 used to offset that customer's electricity load and is limited
18 in nameplate capacity to less than or equal to 2,000 kilowatts.

19 "Commercial solar energy facility owner" means a private
20 commercial enterprise that owns a commercial solar energy
21 facility. A commercial solar energy facility owner is not nor
22 shall it be deemed to be a public utility as defined in the
23 Public Utilities Act.

24 "Commercial wind energy facility" means a wind energy
25 conversion facility of equal or greater than 500 kilowatts in
26 total nameplate generating capacity. "Commercial wind energy

1 facility" includes a wind energy conversion facility seeking an
2 extension of a permit to construct granted by a county or
3 municipality before the effective date of this Act. "Commercial
4 wind energy facility" does not include a wind energy conversion
5 facility: (1) that has submitted a complete permit application
6 to a county or municipality and for which the hearing on the
7 completed application has commenced on the date provided in the
8 public hearing notice, which must be before the effective date
9 of this Act; (2) for which a permit to construct has been
10 issued before the effective date of this Act; or (3) that was
11 constructed before the effective date of this Act.

12 "Commercial wind energy facility owner" means a private
13 commercial enterprise that owns or operates a commercial wind
14 energy facility. A commercial wind energy facility owner is not
15 nor shall it be deemed to be a public utility as defined in the
16 Public Utilities Act.

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

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

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

26 "Department" means the Department of Agriculture.

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

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

10 (Source: P.A. 99-132, eff. 7-24-15.)

11 (505 ILCS 147/15)

12 Sec. 15. Agricultural impact mitigation agreement.

13 (a) A commercial renewable wind energy facility owner of a
14 commercial wind energy facility or a commercial solar energy
15 facility that is located on landowner property shall enter into
16 an agricultural impact mitigation agreement with the
17 Department outlining construction and deconstruction standards
18 and policies designed to preserve the integrity of any
19 agricultural land that is impacted by commercial renewable wind
20 energy facility construction and deconstruction. The
21 construction and deconstruction of any commercial solar energy
22 facility shall be in conformance with the Department's standard
23 agricultural impact mitigation agreement referenced in
24 subsection (f) of this Section. Except as provided in
25 subsection (a-5) of this Section, the terms and conditions of

1 the Department's standard agricultural impact mitigation
2 agreement are subject to and may be modified by an underlying
3 agreement between the landowner and the commercial solar energy
4 facility owner.

5 (a-5) Prior to the commencement of construction, a
6 commercial solar energy facility owner shall submit to the
7 county in which the commercial solar facility is to be located
8 a deconstruction plan. A commercial solar energy facility owner
9 shall provide the county with an appropriate financial
10 assurance mechanism consistent with the Department's standard
11 agricultural impact mitigation agreement for and to assure
12 deconstruction in the event of an abandonment of a commercial
13 solar energy facility.

14 (b) The agricultural impact mitigation agreement for a
15 commercial wind energy facility shall include, but is not
16 limited to, such items as restoration of agricultural land
17 affected by construction, deconstruction (including upon
18 abandonment of a commercial wind energy facility),
19 construction staging, and storage areas; support structures;
20 aboveground facilities; guy wires and anchors; underground
21 cabling depth; topsoil replacement; protection and repair of
22 agricultural drainage tiles; rock removal; repair of
23 compaction and rutting; land leveling; prevention of soil
24 erosion; repair of damaged soil conservation practices;
25 compensation for damages to private property; clearing of trees
26 and brush; interference with irrigation systems; access roads;

1 weed control; pumping of water from open excavations; advance
2 notice of access to private property; indemnification of
3 landowners; and deconstruction plans and financial assurance
4 for deconstruction (including upon abandonment of a commercial
5 wind energy facility).

6 (b-5) The agricultural impact mitigation agreement for a
7 commercial solar energy facility shall include, but is not
8 limited to, such items as restoration of agricultural land
9 affected by construction, deconstruction (including upon
10 abandonment of a commercial solar energy facility); support
11 structures; aboveground facilities; guy wires and anchors;
12 underground cabling depth; topsoil removal and replacement;
13 rerouting and permanent repair of agricultural drainage tiles;
14 rock removal; repair of compaction and rutting; construction
15 during wet weather; land leveling; prevention of soil erosion;
16 repair of damaged soil conservation practices; compensation
17 for damages to private property; clearing of trees and brush;
18 access roads; weed control; advance notice of access to private
19 property; indemnification of landowners; and deconstruction
20 plans and financial assurance for deconstruction (including
21 upon abandonment of a commercial solar energy facility). The
22 commercial solar energy facility owner shall enter into one
23 agricultural impact mitigation agreement for each commercial
24 solar energy facility.

25 (c) For commercial wind energy facility owners seeking a
26 permit from a county or municipality for the construction of a

1 commercial wind energy facility, the agricultural impact
2 mitigation agreement shall be entered into prior to the public
3 hearing required prior to a siting decision of a county or
4 municipality regarding the commercial wind energy facility.
5 The agricultural impact mitigation agreement is binding on any
6 subsequent commercial wind energy facility owner that takes
7 ownership of the commercial wind energy facility that is the
8 subject of the agreement.

9 (c-5) A commercial solar energy facility owner shall, not
10 less than 45 days prior to commencement of actual construction,
11 submit to the Department a standard agricultural impact
12 mitigation agreement as referenced in subsection (f) of this
13 Section signed by the commercial solar energy facility owner
14 and including all information required by the Department. The
15 commercial solar energy facility owner shall provide either a
16 copy of that submitted agreement or a copy of the fully
17 executed project-specific agricultural impact mitigation
18 agreement to the landowner not less than 30 days prior to the
19 commencement of construction. The agricultural impact
20 mitigation agreement is binding on any subsequent commercial
21 solar energy facility owner that takes ownership of the
22 commercial solar energy facility that is the subject of the
23 agreement.

24 (d) If a commercial renewable wind energy facility owner
25 seeks an extension of a permit granted by a county or
26 municipality for the construction of a commercial wind energy

1 facility prior to the effective date of this Act, the
2 agricultural impact mitigation agreement shall be entered into
3 prior to a decision by the county or municipality to grant the
4 permit extension.

5 (e) The Department may shall adopt rules that are necessary
6 and appropriate for the implementation and administration of
7 agricultural impact mitigation agreements as required under
8 this Act.

9 (f) The Department shall make available on its website a
10 standard agricultural impact mitigation agreement applicable
11 to all commercial solar energy facilities within 60 days after
12 the effective date of this amendatory Act of the 100th General
13 Assembly.

14 (g) Nothing in this amendatory Act of the 100th General
15 Assembly and nothing in an agricultural impact mitigation
16 agreement shall be construed to apply to or otherwise impair an
17 underlying agreement for a commercial solar energy facility
18 entered into prior to the effective date of this amendatory Act
19 of the 100th General Assembly.

20 (Source: P.A. 99-132, eff. 7-24-15.)

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