



Sen. Scott M. Bennett

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10000SB2591sam001

LRB100 17172 SLF 39752 a

1 AMENDMENT TO SENATE BILL 2591

2 AMENDMENT NO. _____. Amend Senate Bill 2591 by replacing
3 everything after the enacting clause with the following:

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

6 (55 ILCS 5/5-12020)

7 Sec. 5-12020. 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

1 more than 30 days prior to a siting decision by the county
2 board. Notice of the hearing shall be published in a newspaper
3 of general circulation in the county. A commercial wind energy
4 facility owner, as defined in the Renewable ~~Wind~~ Energy
5 Facilities Agricultural Impact Mitigation Act, must enter into
6 an agricultural impact mitigation agreement with the
7 Department of Agriculture prior to the date of the required
8 public hearing. A commercial wind energy facility owner seeking
9 an extension of a permit granted by a county prior to July 24,
10 2015 (the effective date of Public Act 99-132) must enter into
11 an agricultural impact mitigation agreement with the
12 Department of Agriculture prior to a decision by the county to
13 grant the permit extension. Counties may allow test wind towers
14 to be sited without formal approval by the county board. Any
15 provision of a county zoning ordinance pertaining to wind farms
16 that is in effect before August 16, 2007 (the effective date of
17 Public Act 95-203) may continue in effect notwithstanding any
18 requirements of this Section.

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

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

25 Section 10. The Illinois Municipal Code is amended by

1 changing Section 11-13-26 as follows:

2 (65 ILCS 5/11-13-26)

3 Sec. 11-13-26. Wind farms. Notwithstanding any other
4 provision of law:

5 (a) A municipality may regulate wind farms and
6 electric-generating wind devices within its zoning
7 jurisdiction and within the 1.5 mile radius surrounding its
8 zoning jurisdiction. There shall be at least one public
9 hearing not more than 30 days prior to a siting decision by
10 the corporate authorities of a municipality. Notice of the
11 hearing shall be published in a newspaper of general
12 circulation in the municipality. A commercial wind energy
13 facility owner, as defined in the Renewable Wind Energy
14 Facilities Agricultural Impact Mitigation Act, must enter
15 into an agricultural impact mitigation agreement with the
16 Department of Agriculture prior to the date of the required
17 public hearing. A commercial wind energy facility owner
18 seeking an extension of a permit granted by a municipality
19 prior to July 24, 2015 (the effective date of Public Act
20 99-132) must enter into an agricultural impact mitigation
21 agreement with the Department of Agriculture prior to a
22 decision by the municipality to grant the permit extension.
23 A municipality may allow test wind towers to be sited
24 without formal approval by the corporate authorities of the
25 municipality. Test wind towers must be dismantled within 3

1 years of installation. For the purposes of this Section,
2 "test wind towers" are wind towers that are designed solely
3 to collect wind generation data.

4 (b) A municipality may not require a wind tower or
5 other renewable energy system that is used exclusively by
6 an end user to be setback more than 1.1 times the height of
7 the renewable energy system from the end user's property
8 line. A setback requirement imposed by a municipality on a
9 renewable energy system may not be more restrictive than as
10 provided under this subsection. This subsection is a
11 limitation of home rule powers and functions under
12 subsection (i) of Section 6 of Article VII of the Illinois
13 Constitution on the concurrent exercise by home rule units
14 of powers and functions exercised by the State.

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

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

20 (505 ILCS 147/1)

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

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

1 (505 ILCS 147/5)

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

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

7 (505 ILCS 147/10)

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

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

19 "Abandonment of a commercial solar energy facility" means
20 when deconstruction has not been completed within 12 months
21 after the commercial solar energy facility reaches the end of
22 its useful life. For purposes of this definition, a commercial
23 solar energy facility shall be presumed to have reached the end
24 of its useful life if the commercial solar energy facility
25 owner fails, for a period of 6 consecutive months, to pay the

1 landowner amounts owed in accordance with the underlying
2 agreement.

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

7 "Commercial renewable energy facility " means a commercial
8 wind energy facility or commercial solar energy facility as
9 defined in this Act.

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

26 "Commercial solar energy facility owner" means a private

1 commercial enterprise that owns a commercial solar energy
2 facility. A commercial solar energy facility owner is not nor
3 shall it be deemed to be a public utility as defined in the
4 Public Utilities Act.

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

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

24 "Construction" means the installation, preparation for
25 installation, or repair of a commercial renewable ~~wind~~ energy
26 facility.

1 "County" means the county where the commercial renewable
2 ~~wind~~ energy facility is located.

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

7 "Department" means the Department of Agriculture.

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

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

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

18 (505 ILCS 147/15)

19 Sec. 15. Agricultural impact mitigation agreement.

20 (a) A commercial renewable ~~wind~~ energy facility owner of a
21 commercial wind energy facility or a commercial solar energy
22 facility that is located on landowner property shall enter into
23 an agricultural impact mitigation agreement with the
24 Department outlining construction and deconstruction standards
25 and policies designed to preserve the integrity of any

1 agricultural land that is impacted by commercial renewable wind
2 energy facility construction and deconstruction. The
3 construction and deconstruction of any commercial solar energy
4 facility shall be in conformance with the Department's standard
5 agricultural impact mitigation agreement referenced in
6 subsection (f) of this Section. Except as provided in
7 subsection (a-5) of this Section, the terms and conditions of
8 the Department's standard agricultural impact mitigation
9 agreement are subject to and may be modified by an underlying
10 agreement between the landowner and the commercial solar energy
11 facility owner.

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

21 (b) The agricultural impact mitigation agreement for a
22 commercial wind energy facility shall include, but is not
23 limited to, such items as restoration of agricultural land
24 affected by construction, deconstruction (including upon
25 abandonment of a commercial wind energy facility),
26 construction staging, and storage areas; support structures;

1 aboveground facilities; guy wires and anchors; underground
2 cabling depth; topsoil replacement; protection and repair of
3 agricultural drainage tiles; rock removal; repair of
4 compaction and rutting; land leveling; prevention of soil
5 erosion; repair of damaged soil conservation practices;
6 compensation for damages to private property; clearing of trees
7 and brush; interference with irrigation systems; access roads;
8 weed control; pumping of water from open excavations; advance
9 notice of access to private property; indemnification of
10 landowners; and deconstruction plans and financial assurance
11 for deconstruction (including upon abandonment of a commercial
12 wind energy facility).

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

1 plans and financial assurance for deconstruction (including
2 upon abandonment of a commercial solar energy facility). The
3 commercial solar energy facility owner shall enter into one
4 agricultural impact mitigation agreement for each commercial
5 solar energy facility.

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

16 (c-5) A commercial solar energy facility owner shall, not
17 less than 45 days prior to commencement of actual construction,
18 submit to the Department a standard agricultural impact
19 mitigation agreement as referenced in subsection (f) of this
20 Section signed by the commercial solar energy facility owner
21 and including all information required by the Department. The
22 commercial solar energy facility owner shall provide either a
23 copy of that submitted agreement or a copy of the fully
24 executed project-specific agricultural impact mitigation
25 agreement to the landowner not less than 30 days prior to the
26 commencement of construction. The agricultural impact

1 mitigation agreement is binding on any subsequent commercial
2 solar energy facility owner that takes ownership of the
3 commercial solar energy facility that is the subject of the
4 agreement.

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

12 (e) The Department may ~~shall~~ adopt rules that are necessary
13 and appropriate for the implementation and administration of
14 agricultural impact mitigation agreements as required under
15 this Act.

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

21 (g) Nothing in this amendatory Act of the 100th General
22 Assembly and nothing in an agricultural impact mitigation
23 agreement shall be construed to apply to or otherwise impair an
24 underlying agreement for a commercial solar energy facility
25 entered into prior to the effective date of this amendatory Act
26 of the 100th General Assembly.

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

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