



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB4917

Introduced 1/27/2022, by Rep. Andrew S. Chesney

#### SYNOPSIS AS INTRODUCED:

505 ILCS 147/15

Amends the Renewable Energy Facilities Agricultural Impact Mitigation Act. With respect to an agricultural impact mitigation agreement, requires a commercial renewable energy facility owner of a commercial wind energy facility or a commercial solar energy facility to file with the county or the municipality where the facility will be located a comprehensive agricultural drainage plan that shall mitigate any surface or subsurface drainage impacts on farmland within and outside the footprint of the proposed commercial wind energy facility or a commercial solar energy facility. Effective immediately.

LRB102 23076 CMG 32232 b

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 Renewable Energy Facilities Agricultural  
5 Impact Mitigation Act is amended by changing Section 15 as  
6 follows:

7 (505 ILCS 147/15)

8 Sec. 15. Agricultural impact mitigation agreement.

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

1 agreement between the landowner and the commercial solar  
2 energy facility owner.

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

12 (a-10) Prior to entering into an agricultural impact  
13 mitigation agreement with the Department, a commercial  
14 renewable energy facility owner of a commercial wind energy  
15 facility or a commercial solar energy facility shall file with  
16 the county or the municipality where the facility will be  
17 located a comprehensive agricultural drainage plan that shall  
18 mitigate any surface or subsurface drainage impacts on  
19 farmland within and outside the footprint of the proposed  
20 commercial wind energy facility or a commercial solar energy  
21 facility.

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

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

14 (b-5) The agricultural impact mitigation agreement for a  
15 commercial solar 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 solar energy facility); support  
19 structures; aboveground facilities; guy wires and anchors;  
20 underground cabling depth; topsoil removal and replacement;  
21 rerouting and permanent repair of agricultural drainage tiles;  
22 rock removal; repair of compaction and rutting; construction  
23 during wet weather; land leveling; prevention of soil erosion;  
24 repair of damaged soil conservation practices; compensation  
25 for damages to private property; clearing of trees and brush;  
26 access roads; weed control; advance notice of access to

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

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

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

1 prior to the commencement of construction. The agricultural  
2 impact mitigation agreement is binding on any subsequent  
3 commercial solar energy facility owner that takes ownership of  
4 the commercial solar energy facility that is the subject of  
5 the agreement.

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

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

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

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

1 Act of the 100th General Assembly.

2 (Source: P.A. 99-132, eff. 7-24-15; 100-598, eff. 6-29-18.)

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