



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1602

Introduced 2/26/2021, by Sen. Bill Cunningham

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-12020

Amends the Counties Code. Provides that there shall be at least one public hearing during which public comment shall be taken regarding the application for siting approval or a special use permit for a commercial wind energy facility. Provides that the public hearing shall be noticed and commence not more than 45 days after the filing of an application for siting approval or a special use permit for a commercial wind energy facility. Provides that the county board shall make its siting decision not more than 30 days after the conclusion of the public hearing or the conclusion of the special use permit hearing by the zoning board of appeals. Removes a provision that allows any part of a county zoning ordinance pertaining to wind farms that is in effect before August 16, 2007 to continue in effect notwithstanding the provision of the Section. Provides that a county with an existing zoning ordinance in conflict with the provisions shall amend such zoning ordinance to be in compliance within 120 days after the effective date of the amendatory Act. Specifies setback requirements, blade tip height limitations, and sound limitations. Provides that a county may not place any restriction on the installation or use of a commercial wind energy facility, except by adopting an ordinance that complies with the provisions, and may not establish siting standards for supporting facilities that preclude development of commercial wind energy facilities. Limits home rule powers. Defines terms. Makes other changes.

LRB102 10904 AWJ 16234 b

HOME RULE NOTE
ACT MAY APPLY

A BILL FOR

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 Section 5-12020 as follows:

6 (55 ILCS 5/5-12020)

7 Sec. 5-12020. Wind farms, electric-generating wind
8 devices, and commercial wind energy facilities.

9 (a) As used in this Section:

10 "Commercial wind energy facility" has the meaning assigned
11 to it by Section 10 of the Renewable Energy Facilities
12 Agricultural Impact Mitigation Act.

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

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

3 "Nonparticipating residence" means an occupied residence
4 on nonparticipating property that is existing and occupied as
5 of the date of filing of a permit application by the commercial
6 wind energy facility.

7 "Occupied community building" means a school, place of
8 worship, daycare facility, public library, or community center
9 that is existing and occupied as of the date of filing of a
10 permit application by the commercial wind energy facility.

11 "Participating property" means real property that is the
12 subject of a written agreement between the facility owner and
13 the owner of such real property that provides the facility
14 owner an easement, option, lease, license, or other agreement
15 for the purpose of constructing a wind tower or supporting
16 facilities on such real property.

17 "Participating residence" means an occupied residence on
18 participating property.

19 "Supporting facilities" means the associated transmission
20 lines, substations, access roads, meteorological towers, and
21 other equipment related to the generation of electricity from
22 the commercial wind energy facility.

23 "Wind tower" means the wind turbine tower, nacelle, and
24 blades.

25 (b) Notwithstanding any other provision of law or whether
26 the county has formed a zoning commission and adopted formal

1 zoning under Section 5-12007, a county may establish standards
2 for wind farms and electric-generating wind devices. The
3 standards may include all of the requirements specified in
4 subsections (e) through (i), but may not include requirements
5 for wind farms and electric-generating wind devices that are
6 more restrictive than specified in subsections (e) through (i)
7 ~~, without limitation, the height of the devices and the number~~
8 ~~of devices that may be located within a geographic area.~~ A
9 county may also regulate the siting of wind farms and
10 electric-generating wind devices in unincorporated areas of
11 the county outside of the zoning jurisdiction of a
12 municipality and the 1.5 mile radius surrounding the zoning
13 jurisdiction of a municipality on terms that are not more
14 restrictive than the requirements specified in subsections (e)
15 through (i). This Section applies to home rule and non-home
16 rule counties and is a limitation under subsection (i) of
17 Section 6 of Article VII of the Illinois Constitution on the
18 concurrent exercise by home rule units of powers and functions
19 exercised by the State.

20 (c) There shall be at least one public hearing during
21 which public comment shall be taken regarding the application
22 for siting approval or a special use permit for a commercial
23 wind energy facility. The public hearing shall be noticed and
24 commence not more than 45 days after the filing of an
25 application for siting approval or a special use permit for a
26 commercial wind energy facility. The county board shall make

1 its siting decision not more than 30 days after the conclusion
2 of the public hearing or the conclusion of the special use
3 permit hearing by the zoning board of appeals ~~prior to a siting~~
4 ~~decision by the county board.~~ Notice of the hearing shall be
5 published in a newspaper of general circulation in the county.
6 A commercial wind energy facility owner, as defined in the
7 Renewable Energy Facilities Agricultural Impact Mitigation
8 Act, must enter into an agricultural impact mitigation
9 agreement with the Department of Agriculture prior to the date
10 of the required public hearing. A commercial wind energy
11 facility owner seeking an extension of a permit granted by a
12 county prior to July 24, 2015 (the effective date of Public Act
13 99-132) must enter into an agricultural impact mitigation
14 agreement with the Department of Agriculture prior to a
15 decision by the county to grant the permit extension. Counties
16 may allow test wind towers to be sited without formal approval
17 by the county board. ~~Any provision of a county zoning~~
18 ~~ordinance pertaining to wind farms that is in effect before~~
19 ~~August 16, 2007 (the effective date of Public Act 95-203) may~~
20 ~~continue in effect notwithstanding any requirements of this~~
21 ~~Section.~~

22 (d) A county with an existing zoning ordinance in conflict
23 with this Section shall amend such zoning ordinance to be in
24 compliance with this Section within 120 days after the
25 effective date of this amendatory Act of the 102nd General
26 Assembly.

1 (e) A county may ~~not~~ require:

2 (1) a wind tower or other renewable energy system to
 3 be sited as follows, with setback distances measured from
 4 the center of the base of the wind tower: ~~that is used~~
 5 ~~exclusively by an end user to be setback more than 1.1~~
 6 ~~times the height of the renewable energy system from the~~
 7 ~~end user's property line.~~

<u>Setback Description</u>	<u>Setback Distance</u>
9 <u>Occupied Community</u> 10 <u>Buildings</u>	<u>2.1 times the maximum blade tip</u> <u>height to the nearest point</u> <u>on the outside wall of</u> <u>the structure</u>
13 <u>Participating Residences</u>	<u>1.1 times the maximum blade tip</u> <u>height to the nearest point</u> <u>on the outside wall of</u> <u>the structure</u>
17 <u>Nonparticipating Residences</u>	<u>2.1 times the maximum blade tip</u> <u>height to the nearest point</u> <u>on the outside wall of</u> <u>the structure</u>
21 <u>Participating Property Lines</u>	<u>None</u>

1	<u>Nonparticipating Property</u>	<u>1.1 times the maximum blade tip</u>
2	<u>Lines</u>	<u>height to the nearest point</u>
3		<u>on the property line</u>
4	<u>Public Road Right-of-Way</u>	<u>1.1 times the maximum blade tip</u>
5		<u>height to the center point</u>
6		<u>of the public road right-of-way</u>
7	<u>Overhead Communication and</u>	<u>1.1 times the maximum blade tip</u>
8	<u>Electric Transmission – Not</u>	<u>height to the center point</u>
9	<u>including utility service</u>	<u>of the easement containing</u>
10	<u>lines to individual houses</u>	<u>the overhead line</u>
11	<u>or outbuildings</u>	
12	<u>Overhead Utility Service</u>	<u>None</u>
13	<u>Lines – Lines to individual</u>	
14	<u>houses or outbuildings</u>	

15 (2) a wind tower to be sited in a manner such that
16 industry standard computer modeling indicates that any
17 occupied community building or nonparticipating residence
18 will not experience more than 30 hours per year of shadow
19 flicker under planned operating conditions.

20 The requirements set forth in this subsection (e) may be
21 waived subject to the written consent of the owner of the

1 affected nonparticipating property.

2 (f) A county may not set a blade tip height limitation that
3 is more restrictive than the height allowed under a
4 Determination of No Hazard to Air Navigation by the Federal
5 Aviation Administration under 14 CFR Part 77.

6 (g) A county may not set a sound limitation that is more
7 restrictive than the sound limitations established by the
8 Illinois Pollution Control Board under 35 Ill. Adm. Code 900,
9 901, and 910.

10 (h) A county may not place any restriction, either
11 directly or in effect, on the installation or use of a
12 commercial wind energy facility, except by adopting an
13 ordinance, that complies with this Section and may not
14 establish siting standards for supporting facilities that
15 preclude development of commercial wind energy facilities.

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

24 (j) This Section does not apply to a commercial wind
25 energy facility that began construction or was approved by a
26 political subdivision before the effective date of this

1 amendatory Act of the 102nd General Assembly.

2 (Source: P.A. 100-598, eff. 6-29-18; 101-4, eff. 4-19-19.)