



Sen. Win Stoller

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10300SB1127sam001

LRB103 05566 AWJ 59779 a

1 AMENDMENT TO SENATE BILL 1127

2 AMENDMENT NO. _____. Amend Senate Bill 1127 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. Commercial wind energy facilities and
8 commercial solar energy facilities.

9 (a) As used in this Section:

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

1 Act.

2 "Commercial wind energy facility" means a wind energy
3 conversion facility of equal or greater than 500 kilowatts in
4 total nameplate generating capacity. "Commercial wind energy
5 facility" includes a wind energy conversion facility seeking
6 an extension of a permit to construct granted by a county or
7 municipality before the effective date of this amendatory Act
8 of the 102nd General Assembly.

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

20 "Nonparticipating property" means real property that is
21 not a participating property.

22 "Nonparticipating residence" means a residence that is
23 located on nonparticipating property and that is existing and
24 occupied on the date that an application for a permit to
25 develop the commercial wind energy facility or the commercial
26 solar energy facility is filed with the county.

1 "Occupied community building" means any one or more of the
2 following buildings that is existing and occupied on the date
3 that the application for a permit to develop the commercial
4 wind energy facility or the commercial solar energy facility
5 is filed with the county: a school, place of worship, day care
6 facility, public library, or community center.

7 "Participating property" means real property that is the
8 subject of a written agreement between a facility owner and
9 the owner of the real property that provides the facility
10 owner an easement, option, lease, or license to use the real
11 property for the purpose of constructing a commercial wind
12 energy facility, a commercial solar energy facility, or
13 supporting facilities. "Participating property" also includes
14 real property that is owned by a facility owner for the purpose
15 of constructing a commercial wind energy facility, a
16 commercial solar energy facility, or supporting facilities.

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

22 "Protected lands" means real property that is:

23 (1) subject to a permanent conservation right
24 consistent with the Real Property Conservation Rights Act;
25 or

26 (2) registered or designated as a nature preserve,

1 buffer, or land and water reserve under the Illinois
2 Natural Areas Preservation Act.

3 "Supporting facilities" means the transmission lines,
4 substations, access roads, meteorological towers, storage
5 containers, and equipment associated with the generation and
6 storage of electricity by the commercial wind energy facility
7 or commercial solar energy facility.

8 "Wind tower" includes the wind turbine tower, nacelle, and
9 blades.

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

25 (c) If a county has elected to establish standards under
26 subsection (b), before the county grants siting approval or a

1 special use permit for a commercial wind energy facility or a
2 commercial solar energy facility, or modification of an
3 approved siting or special use permit, the county board of the
4 county in which the facility is to be sited or the zoning board
5 of appeals for the county shall hold at least one public
6 hearing. The public hearing shall be conducted in accordance
7 with the Open Meetings Act and shall be held not more than 45
8 days after the filing of the application for the facility. The
9 county shall allow interested parties to a special use permit
10 an opportunity to present evidence and to cross-examine
11 witnesses at the hearing, but the county may impose reasonable
12 restrictions on the public hearing, including reasonable time
13 limitations on the presentation of evidence and the
14 cross-examination of witnesses. The county shall also allow
15 public comment at the public hearing in accordance with the
16 Open Meetings Act. The county shall make its siting and
17 permitting decisions not more than 30 days after the
18 conclusion of the public hearing. Notice of the hearing shall
19 be published in a newspaper of general circulation in the
20 county. A facility owner must enter into an agricultural
21 impact mitigation agreement with the Department of Agriculture
22 prior to the date of the required public hearing. A commercial
23 wind energy facility owner seeking an extension of a permit
24 granted by a county prior to July 24, 2015 (the effective date
25 of Public Act 99-132) must enter into an agricultural impact
26 mitigation agreement with the Department of Agriculture prior

1 to a decision by the county to grant the permit extension.
 2 Counties may allow test wind towers or test solar energy
 3 systems to be sited without formal approval by the county
 4 board.

5 (d) A county with an existing zoning ordinance in conflict
 6 with this Section shall amend that zoning ordinance to be in
 7 compliance with this Section within 120 days after the
 8 effective date of this amendatory Act of the 102nd General
 9 Assembly.

10 (e) A county may require:

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

14	Setback Description	Setback Distance
15	Occupied Community	2.1 times the maximum blade tip
16	Buildings	height of the wind tower to the
17		nearest point on the outside
18		wall of the structure
19	Participating Residences	1.1 times the maximum blade tip
20		height of the wind tower to the
21		nearest point on the outside
22		wall of the structure

1	Nonparticipating Residences	2.1 times the maximum blade tip
2		height of the wind tower to the
3		nearest point on the outside
4		wall of the structure
5	Boundary Lines of	None
6	Participating Property	
7	Boundary Lines of	1.1 times the maximum blade tip
8	Nonparticipating Property	height of the wind tower to the
9		nearest point on the property
10		line of the nonparticipating
11		property
12	Public Road Rights-of-Way	1.1 times the maximum blade tip
13		height of the wind tower
14		to the center point of the
15		public road right-of-way
16	Overhead Communication and	1.1 times the maximum blade tip
17	Electric Transmission	height of the wind tower to the
18	and Distribution Facilities	nearest edge of the property
19	(Not Including Overhead	line, easement, or right of way
20	Utility Service Lines to	containing the overhead line
21	Individual Houses or	
22	Outbuildings)	

1	Overhead Utility Service	None
2	Lines to Individual	
3	Houses or Outbuildings	
4	Fish and Wildlife Areas	2.1 times the maximum blade
5	and Illinois Nature	tip height of the wind tower
6	Preserve Commission	to the nearest point on the
7	Protected Lands	property line of the fish and
8		wildlife area or protected
9		land

10 This Section does not exempt or excuse compliance with
11 electric facility clearances approved or required by the
12 National Electrical Code, The National Electrical Safety
13 Code, Illinois Commerce Commission, Federal Energy
14 Regulatory Commission, and their designees or successors.

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

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

1	Setback Description	Setback Distance
2	Occupied Community	150 feet from the nearest
3	Buildings and Dwellings on	point on the outside wall
4	Nonparticipating Properties	of the structure
5	Boundary Lines of	None
6	Participating Property	
7	Public Road Rights-of-Way	50 feet from the nearest
8		edge
9	Boundary Lines of	50 feet to the nearest
10	Nonparticipating Property	point on the property
11		line of the nonparticipating
12		property

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

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

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

4 (f) A county may not set a sound limitation for wind towers
5 in commercial wind energy facilities or any components in
6 commercial solar energy facility that is more restrictive than
7 the sound limitations established by the Illinois Pollution
8 Control Board under 35 Ill. Adm. Code Parts 900, 901, and 910.

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

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

24 (h) A county may not adopt zoning regulations that
25 disallow, permanently or temporarily, commercial wind energy
26 facilities or commercial solar energy facilities from being

1 developed or operated in any district zoned to allow
2 agricultural or industrial uses.

3 (i) A county may not require permit application fees for a
4 commercial wind energy facility or commercial solar energy
5 facility that are unreasonable. All application fees imposed
6 by the county shall be consistent with fees for projects in the
7 county with similar capital value and cost.

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

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

25 (l) A county may require certain vegetative screening
26 surrounding a commercial wind energy facility or commercial

1 solar energy facility but may not require earthen berms or
2 similar structures.

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

9 (n) A county may require that a commercial wind energy
10 facility owner or commercial solar energy facility owner
11 provide:

12 (1) the results and recommendations from consultation
13 with the Illinois Department of Natural Resources that are
14 obtained through the Ecological Compliance Assessment Tool
15 (EcoCAT) or a comparable successor tool; and

16 (2) the results of the United States Fish and Wildlife
17 Service's Information for Planning and Consulting
18 environmental review or a comparable successor tool that
19 is consistent with (i) the "U.S. Fish and Wildlife
20 Service's Land-Based Wind Energy Guidelines" and (ii) any
21 applicable United States Fish and Wildlife Service solar
22 wildlife guidelines that have been subject to public
23 review.

24 (o) A county may require a commercial wind energy facility
25 or commercial solar energy facility to adhere to the
26 recommendations provided by the Illinois Department of Natural

1 Resources in an EcoCAT natural resource review report under 17
2 Ill. Admin. Code Part 1075.

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

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

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

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

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

1 No later than 90 days after the effective date of this
2 amendatory Act of the 102nd General Assembly, the Illinois
3 Department of Natural Resources shall develop guidelines for
4 vegetation management plans that may be required under this
5 subsection for commercial solar energy facilities. The
6 guidelines must include guidance for short-term and long-term
7 property management practices that provide and maintain native
8 and non-invasive naturalized perennial vegetation to protect
9 the health and well-being of pollinators.

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

1 the developer if the roadways have degraded or were damaged as
2 a result of construction-related activities.

3 The road use agreement shall not require the facility
4 owner to pay costs, fees, or charges for road work that is not
5 specifically and uniquely attributable to the construction of
6 the commercial wind energy facility or the commercial solar
7 energy facility. Road-related fees, permit fees, or other
8 charges imposed by the Illinois Department of Transportation,
9 a road district, or other unit of local government under a road
10 use agreement with the facility owner shall be reasonably
11 related to the cost of administration of the road use
12 agreement.

13 (t) Notwithstanding any other provision of law, a facility
14 owner with siting approval from a county to construct a
15 commercial wind energy facility or a commercial solar energy
16 facility is authorized to cross or impact a drainage system,
17 including, but not limited to, drainage tiles, open drainage
18 districts, culverts, and water gathering vaults, owned or
19 under the control of a drainage district under the Illinois
20 Drainage Code without obtaining prior agreement or approval
21 from the drainage district, except that the facility owner
22 shall repair or pay for the repair of all damage to the
23 drainage system caused by the construction of the commercial
24 wind energy facility or the commercial solar energy facility
25 within a reasonable time after construction of the commercial
26 wind energy facility or the commercial solar energy facility

1 is complete.

2 (u) The amendments to this Section adopted in Public Act
3 102-1123 ~~this amendatory Act of the 102nd General Assembly~~ do
4 not apply to: (1) an application for siting approval or for a
5 special use permit for a commercial wind energy facility or
6 commercial solar energy facility if the application was
7 submitted to a unit of local government before the effective
8 date of this amendatory Act of the 102nd General Assembly; ~~or~~
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 the effective date of this amendatory Act
13 of the 102nd General Assembly; or (3) a commercial wind energy
14 or 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. 101-4, eff. 4-19-19; 102-1123, eff. 1-27-23.)

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