

Utility Wind and Solar: ***Permitting and Construction Process***

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Agenda



How has the Permitting and Construction Process Changed After the 2023 Siting Law?

1. Background & New Renewable Siting Law
2. Legal Issues & Litigation Outlook
3. Trailer Bill: P.A. 103-0580
4. The “Battery Bill”
5. Questions?

Renewable Siting Law: P.A. 102-1123

Effective January 27, 2023

Standardized County Permitting

- Counties may not prohibit renewable development
- Establishes setbacks, height limitations, etc. – counties may not create rules “more restrictive” than these
- Permit applications that meet all county, state, and federal standards “shall be approved”
- Required counties to amend their ordinances by May 30, 2023 to comply with state law



Legal Issues

What role do general zoning standards (the “LaSalle Factors”) play?

What constitutes “more restrictive than”?

Applications “shall be approved” if in compliance with the Counties Code, other state and federal standards, and local ordinance.

Can a County deny a permit application for failure to meet a requirement not addressed in the Counties Code?

Litigation Outlook

- Increased pushback from counties in the past year+
- Several forms of resistance:
 - o Non-binding resolutions
 - o Refusing to modify ordinances
 - o Imposing conditions that exceed the state standards
 - o Denying applications
- At least 11 counties have taken negative actions
- Litigation under P.A. 102-1123 is underway– some counties are backing down

WESTERN ILLINOIS TODAY

Mercer County Zoning Board Rejects Solar Farm Application

The Mercer County Zoning Board has turned down an application for a proposed 300-acre solar farm near Alexis. Mercer County State's Attorney Grace Simpson details the decision.

2 solar farms denied in Bureau County after hearing residents' concerns

Solar farms would have surrounded a homeowner

Tazewell County Board votes no for solar farm, but a state law could reverse the decision

By [Sam Matheny](#)

Published: Aug. 30, 2024 at 5:52 PM CDT

960-Acre Solar Farm Will Be Constructed in Grundy Co. After Lawsuit Settled

Apr 1, 2024

[Click Here to submit a News Tip or Story](#)

Trailer Bill: P.A. 103-0580

Effective December 8, 2023

- Timing for public hearing in Section 5/12020(c) – from 45-60 days.
- Revises decommissioning cost provisions so they must be consistent with the AIMA in Section 5/12020(j). The default is no longer to subtract salvage value.
- Vegetative management plans for solar projects; optional for counties. Section 5/12020(r).
- Crop loss/agricultural damages related to drainage impacts. Section 5/12020(s-5).
- Adds new requirement for a farmland drainage plan in new Section 5/12020(j-f).
 - o Specifies that drainage district approval is not required, so long as the impacts to the district facilities are “in accordance with the farmland drainage plan.”

Implementing the Trailer Bill

- **Counties did not have to update their ordinances again.**
 - There's no explicit directive/deadline to amend ordinances, as there was the first time around. But ordinances that are not consistent with state law would still be preempted by state law.
 - Arguably, some provisions apply even in counties without ordinances.
- **No grandfathering provision.**
 - There is no grandfathering provision for this new P.A. 103-0580. Projects that haven't begun construction should comply with the new provisions that are not identified as optional.

The “Battery Bill” (SB 3959/HB 5856)

- Would amend the Illinois Power Agency Act to add energy storage incentives.
- Would authorize the IPA to enter into tolling agreements and conduct competitive procurements of energy storage credits.
- A Clean Grid Alliance August 2024 study predicts Illinois’ need for and economic benefits of energy storage.
- Incentivizes both stand alone energy storage and energy storage paired with a renewable energy device.
- Miscellaneous cleanups

Questions?

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