POWER Act County Mandates and Preemptions

HB 5513 (Representative Gabel, D-Evanston) proposes sensible regulations for data centers. The bill also includes new mandates and preemptions of local authority. The most significant county concerns with HB 5513 (Representative Gabel, D-Evanston) are listed below.

Direct solar permitting mandates and restrictions

Automated permitting platform

Section 10-10 | Page 632 | Mandate with potential unfunded costs

Counties must adopt a residential automated solar permitting platform by July 1, 2027, subject to the alternative below. The platform must be anticipated to process at least 75% of residential solar applications on existing construction. Implementation, integration, training, records management and continuing administration could require county resources. Article 10 provides no express county reimbursement mechanism. The platform definition permits fees, so some cost recovery remains possible.

Manual review prohibition

Section 10-10 | Page 632 | Restriction on county review authority

For platform-approved systems, counties may not require manual review during permitting or inspection, including before issuing permits or conducting or finalizing inspections. This limits independent staff review. Inspectors remain expressly permitted to examine construction documents; the provision does not eliminate all inspection authority.

Website information

Section 10-20 | Page 633 | Administrative mandate

By July 1, 2027, all counties must post platform availability and access information on their websites. This creates a website administration duty without express reimbursement. The population threshold applies to municipalities, not counties.

Remote inspections and one inspection limit

Section 10-30 | Page 634 | Mandate and restriction on county discretion

By July 1, 2027, all counties must offer remote inspections through electronically submitted recorded video or photographs for platform-permitted projects, at no greater cost or delay than in-person inspections. Counties may require no more than one inspection unless the first inspection fails. These provisions require a remote workflow and limit charges, scheduling and multiple-stage inspections.

Exemptions and direct financial exposure

Expedited in person permitting alternative

Section 10-15 | Page 633

A county offering in-person permitting for all residential solar applications within five business days is exempt from Section 10-10. This is an alternative compliance route, not a universal five-day deadline. The exemption does not expressly extend to the entire article. The relationship between this exemption and the website requirement should be clarified.

Exemption where solar permits are not required

Section 10-30 paragraph 2 | Page 634

A county that does not require permits for residential photovoltaic solar and storage systems is exempt from Section 10-30. The text does not expressly extend that exemption to the platform-adoption requirement. Counties should seek consistent treatment across all Article 10 requirements.

Private litigation and attorney fees

Section 10-25 | Pages 633–634 | County fiscal exposure

Aggrieved persons or entities may sue counties without exhausting administrative remedies. Relief includes a civil penalty of up to $1,000, other appropriate legal or equitable relief, and attorney fees and costs. Total exposure is therefore not limited to $1,000. The provision allows representative actions and contains no express notice-and-cure protection. The filing period generally runs three years from the permit request, with tolling when a county deters the exercise of rights under the act.

Data center contracting and administrative concerns

Prohibition on nondisclosure agreements

New Environmental Protection Act Section 60.2 | Page 160 | Direct authority restriction

Governmental units may not enter nondisclosure agreements concerning data center siting, planning, construction or operation, notwithstanding contrary law. This removes a contracting option counties might use during economic development discussions. The provision does not itself require disclosure of every project record or expressly repeal all existing disclosure exemptions; treatment of existing agreements should be clarified.

Locally led engagement and informed consent

New Section 60.1 subsection b paragraph 4 | Page 159 | Potential unfunded responsibility

A condition for waiving the data center siting prohibition refers to a transparent process led by local authorities in collaboration with residents and community organizations. Counties could be expected to facilitate engagement and devote staff or legal resources. The text does not clearly assign county duties or guarantee their reimbursement. Applicant funding of the state cumulative impact assessment does not expressly assure payment of county participation costs. This is a potential or conditional burden, rather than a clearly stated universal county mandate.

County participation and preservation of authority

Community benefits agreements and advisory boards

New Sections 60.4 and 60.5 | Pages 163–166 | Conditional costs and governance concerns

Counties may form and appoint an advisory board for projects in unincorporated areas; formation is not mandatory. Advisory boards have reporting-related responsibilities, and developers must coordinate recurring public meetings with the board or coalition. County-supported boards could require staff and technical assistance without an express administrative reimbursement guarantee. Developers may enter an agreement with an advisory board or community coalition, so the framework does not guarantee county control of negotiations or approval of the agreement. This is not an express repeal of county zoning authority.

County eligibility for intervenor funding

New Section 60.3 | Pages 160–162 especially page 161 | Funding gap

The Data Center Community Intervenor Compensation Fund expressly identifies municipalities among eligible community interest representatives but does not expressly identify counties. Counties should seek explicit eligibility for assistance with participation in data center proceedings. This omission is a funding-equity concern, not itself a county spending mandate.

State siting restrictions and local zoning

New Section 60.1 | Pages 156–160 and existing Section 39 subsection c | Pages 8–9

The bill establishes a state prohibition and conditional waiver process for data centers in specified communities. That can prevent a locally supported project from proceeding, but does not itself authorize the state to override a county zoning denial. Section 39(c) retains a requirement to secure necessary local zoning approvals, subject to its stated exceptions. The bill is not a blanket preemption of county data center zoning.