Illinois State Association of Counties
ISSUE BRIEF

September 22, 2026

THE POWER ACT: DATA CENTER REGULATION AND COUNTY RESPONSIBILITIES

HB 5513 – Analysis of the Introduced Version

Overview

HB 5513, introduced by Representative Robyn Gabel (D-Evanston), would establish extensive environmental, water, energy and community engagement requirements for data centers in Illinois. The legislation also includes a separate residential solar permitting mandate affecting county and municipal governments.

For counties, the proposal presents potential benefits through stronger protections for water resources, increased public information and requirements intended to prevent data center infrastructure costs from being shifted to other utility customers. It also raises concerns involving local administrative costs, permitting discretion, litigation exposure and county participation in community benefits agreements.

This *Issue Brief* examines HB 5513 as introduced. The requirements and deadlines described below are proposals contained in that version. Subsequent amendments could change their scope or implementation.

County Impact at a Glance

The legislation would affect counties in several distinct ways:

- **Residential solar permitting:** Require automated permitting or a qualifying expedited in-person alternative, restrict additional manual review, and establish remote inspection requirements.
- **County legal exposure:** Allow aggrieved applicants to sue counties for violations of the solar permitting provisions and recover specified relief, attorney fees and costs.
- **Data center development:** Add state environmental and water requirements that could influence project feasibility, location and timing.
- **Community benefits:** Allow counties to establish community advisory boards for data centers in unincorporated areas.
- **Economic development negotiations:** Prohibit governmental units from entering into data center nondisclosure agreements.
- **Utility and water costs:** Require specified costs associated with serving data centers to be borne by those facilities.

- **Public resources:** Establish substantial data center payments supporting state-administered programs, without guaranteeing a direct distribution to host counties.

The solar permitting provisions warrant attention from all counties, including those without an existing or proposed data center.

Residential Solar Permitting Requirements

Article 10 would create the Residential Automated Solar Permitting Platform Act.

By July 1, 2027, counties and municipalities would generally be required to adopt software that automates residential solar plan review, produces code-compliant approvals, accepts online payments where fees are imposed, and instantly issues permits and permit revisions.

The platform would be expected to process at least 75 percent of residential solar applications involving existing construction. Covered installations could include qualifying photovoltaic systems, battery storage, electrical panel upgrades and breaker modifications.

For systems approved through the platform, counties could not require manual review during the permitting or inspection process. The bill nevertheless allows inspectors to examine construction documents.

All counties would also be required to post information about platform availability and access on their websites. The municipal population threshold appearing in that provision does not exempt small counties.

For platform-permitted projects, counties would have to offer inspections through electronically submitted photographs or recorded video. Remote inspections could not cost more or involve greater delay than in-person inspections. Only one inspection could be required unless the initial inspection failed.

These changes could reduce processing times and routine staff workload. Implementation could also require technology integration, employee training, new inspection procedures and electronic recordkeeping. Article 10 does not expressly provide funding for those county responsibilities.

The Solar Exemptions Require Clarification

The bill includes two exemptions with different scopes.

A county or municipality offering in-person permitting for all residential solar applications within five business days would be exempt from Section 10-10, which contains the platform adoption and manual-review restrictions.

Separately, a county or municipality that does not require permits for residential photovoltaic solar and storage systems would be exempt from Section 10-30, concerning remote inspections.

Neither exemption expressly applies to the entire Act. The five-day permitting exemption does not expressly remove the website requirement. The no-permit exemption does not expressly remove the platform adoption requirement.

Clarifying these relationships would help counties determine their obligations and avoid disputes over compliance.

Potential Lawsuits Against Counties

An aggrieved person or entity could file a civil action against a county or municipality for violating the solar permitting Act or its implementing rules without first exhausting administrative remedies.

Available relief would include a civil penalty of up to $1,000, other appropriate legal or equitable relief, and attorney fees and costs. The bill also permits actions on behalf of similarly situated persons.

The limitation period would generally expire three years after the residential solar permit request, with tolling where a local government deterred the exercise of rights under the Act.

For counties, the potential expense extends beyond the stated civil penalty. Defense costs, fee awards and changes required by court orders could create additional financial exposure.

A notice-and-cure process could allow counties to correct technical or administrative violations before litigation begins.

Environmental Review and Data Center Siting

Proposed Environmental Protection Act Section 60.1 would establish restrictions on constructing, establishing or expanding data centers in specified areas near Equity Investment Eligible Communities and designated Chicago Environmental Justice Neighborhoods.

The prohibition could be waived only after specified conditions are met. These include an Illinois Environmental Protection Agency cumulative impact assessment, applicant funding for the assessment, public participation, informed community consent through a locally led process, and required agency findings concerning health and environmental risks.

The assessment would consider existing pollution and potential effects on public health, water resources, the electric grid and surrounding communities.

For covered facilities, Illinois EPA would also evaluate emissions from all power sources operating simultaneously at their full potential.

A county zoning approval would not, by itself, satisfy these separate state requirements. Counties would need to account for the state review process when evaluating development schedules and anticipated revenues.

The community-consent provision also warrants clarification regarding who determines consent, what process is required and how that process relates to existing county hearings.

Community Benefits Agreements

Developers seeking to construct a data center would be required to enter into a legally binding, publicly disclosed Community Benefits Agreement with a Community Advisory Board or Community Coalition.

Potential investments could include workforce training, environmental mitigation, stormwater improvements, parks, community facilities, affordable housing and environmental monitoring.

Developers would also have to establish and fund a Community Benefit Fund in an amount agreed upon by the parties. The advisory board or coalition would manage the fund.

For a data center in an unincorporated area, the county government could form and appoint the Community Advisory Board. Municipal governments would have corresponding authority for facilities within their boundaries. A majority of advisory board members would represent residents, workers and community-based nonprofit organizations from the impacted community.

These provisions could help communities secure enforceable benefits from development. Crucially, because the bill permits developers to enter into an agreement with either a Community Advisory Board or an independent Community Coalition, a developer could potentially bypass a county-appointed board entirely. Furthermore, any resulting Community Benefit Fund is managed directly by the negotiating entity and would not automatically flow to the county as general revenue.

The legislation should clarify representation, selection of negotiating parties, financial oversight and coordination with county development agreements. Commitments addressing county roads, drainage, emergency services and other infrastructure should be clearly documented.

Transparency and Economic Development Negotiations

The bill would prohibit governmental units from entering into nondisclosure agreements concerning data center siting, planning, construction or operation.

Developers would also have to provide notice through specified methods within 30 days of applying for a permit related to zoning, permitting, siting or construction. Notice would include local governments covering the site and landowners within five miles.

A quarterly updated public website would disclose information concerning water use, emissions, community benefits, mitigation and workforce characteristics. Developers would participate in at least two public meetings annually during the first five years of operation.

Counties would gain information useful for reviewing development proposals and monitoring commitments. Counties using confidentiality agreements during project recruitment would need to revise their practices.

The treatment of existing agreements and the relationship between the nondisclosure prohibition and statutory confidentiality protections should be clarified.

Water Resource Protection and Infrastructure Costs

The legislation would establish water-resource planning, quarterly usage reporting, water-impact assessments, drought-response planning and public disclosure requirements.

Following implementation of the required rules, data centers would need a Water Impact Permit from Illinois EPA. Permits would be valid for five years.

Before approval, Illinois EPA would provide a 45-day public comment period and hold at least two public hearings, including an in-person hearing near the project.

Permit requirements would address adverse resource impacts, water efficiency and payment for identified water and wastewater infrastructure modifications. Covered new facilities would need cooling methods at least as water-efficient as closed-loop cooling.

The bill would require relevant cost-of-service studies and documentation that rates correspond to the identified cost of service. Where specified studies do not exist, the data center would pay for their preparation.

Illinois EPA could suspend operations or take permitting action where a facility causes or is likely to cause an adverse resource impact.

For counties, these provisions could improve information about groundwater, drinking-water supplies and cumulative demand. They could also help protect other customers from subsidizing infrastructure needed to serve a data center.

The state would administer the permit program. Counties and local utilities could nevertheless face additional coordination and planning responsibilities.

Electric Utility Cost Protections

The bill would require specialized electric tariffs for hyperscale data centers.

The tariffs would allocate utility investments needed to serve those facilities to the data center customers and establish contractual protections against stranded costs. Those protections could include minimum charges, collateral, contract-duration requirements and charges for early termination or substantial reductions in demand.

The legislation would also require demand flexibility for loads not supported by qualifying new clean capacity. Qualifying projects bringing additional clean resources could receive faster interconnection.

Separate provisions would address municipal and cooperative utility planning, customer notice, resource procurement and cost recovery.

Counties could benefit as electricity purchasers and through protections for residents and businesses. Actual rate effects would depend on implementation and broader electricity-market conditions.

The additional demand for clean resources could also encourage energy development in counties that do not host data centers.

Data Center Fees and Community Funding

The proposed Hyperscale Data Center Public Benefits and Affordability Fund would receive annual payments based on peak demand, including the specified forecast.

Peak demand	Annual payment
50–99.9 megawatts	$2 million
100–249.9 megawatts	$4 million
250–499.9 megawatts	$6 million
500–749.9 megawatts	$8 million
750–999.9 megawatts	$10 million
1,000 megawatts or more	$12 million

Payments would adjust with the Consumer Price Index-U.

Resources would support specified energy assistance, weatherization, environmental justice, monitoring, water and infrastructure programs. Spending priorities would include host and adjacent census tracts and low-income customers.

The fund could benefit county residents and local infrastructure. However, it would be administered by state agencies, and the bill does not guarantee a direct host-county allocation or reimbursement for all county costs.

Energy Standards, Reporting and Coverage

Hyperscale data centers would have to comply with the most stringent of the specified energy-code standards. The bill would also establish annual energy and water reporting to the Illinois Commerce Commission and incentives for qualifying customers facilitating additional clean generation.

The legislation does not use a single uniform definition for every requirement. The environmental provisions incorporate a definition of "data center," while the ICC reporting provision separately defines "hyperscale data center" using demand exceeding 50,000 kilowatts and includes specified exclusions.

Facility-level information submitted under the ICC reporting provision could receive confidential treatment, while public ICC reporting would be aggregated and anonymized. Other provisions require public disclosure of facility-specific water information.

Counties should not assume that every provision applies only to facilities exceeding 50 megawatts or that every required report would be publicly available.

Practical Example: A Proposed Data Center

Consider a hypothetical 200-megawatt data center proposed in an unincorporated county area.

Assuming the applicable provisions cover the project, the county could establish a Community Advisory Board. The developer would need a Community Benefits Agreement and would contribute

$4 million annually to the state Public Benefits and Affordability Fund, subject to inflation adjustments.

The project would also need to satisfy applicable environmental, water and utility requirements. Additional cumulative-impact restrictions could apply depending on its location.

The county would need to evaluate the project's service demands, infrastructure commitments and development schedule. It should not treat either the state fund payment or the separately negotiated community benefits fund as guaranteed county general revenue.

Issues Requiring Legislative Clarification

Several provisions warrant attention during legislative consideration:

- **Solar implementation:** Reconcile exemptions, address counties without permitting programs, and provide funding and technical assistance.
- **Inspection authority:** Clarify how counties may respond to inadequate photographs, incomplete information or identified safety concerns.
- **Litigation:** Consider notice and an opportunity to cure before a civil action.
- **County authority:** Expressly preserve applicable local zoning, development agreements and infrastructure protections.
- **Community benefits:** Clarify county representation, negotiating authority, fund oversight and enforcement.
- **Funding:** Provide a clear mechanism for considering county expenses attributable to data center development.
- **Coverage and timing:** Harmonize definitions, clarify treatment of existing facilities and agreements, and update fixed implementation dates where necessary.
- **Information access:** Ensure counties can obtain information necessary for land-use, infrastructure and emergency planning.

Key Takeaways for Counties

HB 5513 would combine substantial data center safeguards with direct changes to county residential solar permitting practices.

The data center provisions could improve transparency, protect water resources and strengthen requirements that developers pay specified costs associated with their operations. They would also introduce additional state review processes and community governance arrangements that counties would need to understand.

The residential solar provisions would have broader geographic consequences. Counties without data centers could still face technology requirements, limits on manual review, changes to inspections and new litigation exposure.

County review should therefore address both components of the proposal, with particular attention to implementation funding, clear exemptions, preservation of local authority and a meaningful county role in decisions affecting county services and resources.

POWER Act Provision Index

This index identifies the principal provisions within HB 5513, as introduced, relevant to the accompanying *Issue Brief*. All statutory references below describe proposed changes in the introduced bill.

Residential solar permitting

Article 10 creates the Residential Automated Solar Permitting Platform Act.

Provision	Section	Bill pages
Platform definitions and covered systems	Sections 10-1 and 10-5	631–632
Platform adoption deadline, application capacity and manual-review restrictions	Section 10-10	632
Five-business-day in-person permitting exemption	Section 10-15	633
County and municipal website requirements	Section 10-20	633
Civil actions, penalties, attorney fees and limitation period	Section 10-25	633–634
Remote inspections, inspection limits and no-permit exemption	Section 10-30	634

Data center siting and community benefits

Environmental Protection Act (415 ILCS 5).

Provision	Section	Bill pages
Definitions, including community boards and coalitions	Section 60	153–156
Cumulative impact assessment and siting restrictions	Section 60.1	156–160
Locally led community-consent process	Section 60.1(b)(4)	159
Governmental nondisclosure agreement prohibition	Section 60.2	160
Community Intervenor Compensation Fund	Section 60.3	160–162
Community benefits agreements and local benefits funds	Section 60.4	163–164
County appointment of an advisory board for an unincorporated site	Section 60.4(f)	164

Transparency and public benefits funding

Environmental Protection Act (415 ILCS 5).

Provision	Section	Bill pages
Developer reporting website and public meetings	Section 60.5	165–166
Notice to local governments and landowners within five miles	Section 60.6	166–167
Public Benefits and Affordability Fund purposes and spending priorities	Section 60.7(a)–(b)	167–170
Annual demand-based payments and inflation adjustment	Section 60.7(c)	170–171

Water resources and infrastructure costs

Environmental Protection Act (415 ILCS 5).

Provision	Section	Bill pages
Water-resource plans, demand projections and conservation	Section 60.8	171–178
Water and wastewater cost-of-service studies	Section 60.8	174–177
Quarterly water usage reports	Section 60.9	178–180
Illinois State Water Survey impact reports	Section 60.10	180–181
Water Scarcity Plans and drought response	Section 60.11	181–182
Public disclosure of water documents	Section 60.12	182–183
Water Impact Permit program	Section 60.13	183–187
Cost-of-service rate documentation	Section 60.13(b)	183–184
Permit criteria, infrastructure costs and cooling efficiency	Section 60.13(c)	184–185
Public comment and hearings	Section 60.13(f)	185–186
Five-year permit term and renewal	Section 60.13(g)–(h)	186
Operational suspension and permit enforcement	Section 60.13(i)	187
Water impact fees and implementing rules	Sections 60.14–60.15	187–189
Water Use Advisory Council	Section 60.16	189–192

Energy standards and utility protections

Provision	Section	Bill pages
Data center energy-code requirements	20 ILCS 3125/30 and /60	193–194
Hyperscale self-direct program eligibility and credit calculations	20 ILCS 3855/1-75(c)(1)(R-5)	479–486[1]
ICC energy and water reporting, penalties and ratepayer study	220 ILCS 5/4-620	612–616
Hyperscale definition, demand threshold and exclusions for ICC reporting	220 ILCS 5/4-620(b)	612–613
Confidential submissions and aggregated public reporting	220 ILCS 5/4-620(e)–(f)	613–614
Specialized hyperscale data center tariffs	220 ILCS 5/16-105.8	616–620
Infrastructure cost allocation and contract safeguards	220 ILCS 5/16-105.8(b)(1)–(2)	618
Flexible interconnection and Bring Your Own New Clean Energy requirements	220 ILCS 5/16-105.9	620–627
Fast-track clean-energy benchmarks	220 ILCS 5/16-105.9(d)	625–626
Municipal and cooperative utility planning, tariffs and resource requirements	220 ILCS 31/1-40	627–631

[1] Pages 479–486 identify the eligibility and credit-calculation provisions cited in the *Issue Brief*; related application and compliance provisions continue afterward. The bill reproduces multiple versions of certain amended statutes.

Reference notes

The solar exemptions have different scopes: Section 10-15 exempts qualifying jurisdictions from Section 10-10, while Section 10-30(2) addresses the remote-inspection section. Consult the precise provision when evaluating county obligations.

The bill uses different definitions for its environmental and energy provisions. The demand threshold in the ICC reporting section should not be assumed to govern every data center requirement.