



County Provisions in Newly Filed Omnibus Energy Bill

HB 4116 (Representative Hoffman, D-Swansea) includes numerous provisions pertinent to county regulatory authority over wind, solar (private and commercial) and energy storage systems, setbacks, vegetative screening, construction timetables, building permits and fees and zoning assessments. The bill was filed in the Illinois House on September 10, 2025, and will likely be considered during the Veto Session (October 14-16 and 28-30).

Solar Bill of Rights

HB 4116 creates a new Division 5-46 in the Illinois Counties Code, entitled the *Solar Bill of Rights*.

This provision preempts counties from banning solar energy systems or small solar devices, while carving out exceptions for tall buildings and shared roofs. It protects homeowners in single-family settings but leaves gaps for multi-family dwellings, and its attorney's fee provision creates an enforcement mechanism against restrictive county policies.

Key Definitions

The legislation sets a broad definitional framework:

- **Low-voltage solar-powered device**
 - Items like solar doorbells, outdoor lighting, and security systems operating at <50 volts.
 - Must be located either entirely on the owner's lot or in a common area if not permanently affixed.
- **Solar collector**
 - Very broadly defined to include passive/active solar collection devices, PV panels, mechanisms converting solar into electricity, and related components.
- **Solar energy system**
 - Covers both the hardware (collectors, storage, and interface with conventional systems) and labor/maintenance components.
 - Importantly, this makes clear the law protects not just panels but also the full system and its operation.
- **Solar storage mechanism**
 - Explicitly includes batteries, containers, exchangers, piping, and controls — ensuring that battery storage systems tied to solar are covered.

Prohibitions (Sec. 5-46010)

- Counties are expressly prohibited from passing ordinances, resolutions, or exercising any power that prohibits or has the *effect* of prohibiting solar energy systems or low-voltage devices.
- This is a preemption clause, meaning county governments cannot override this right through zoning, permitting, or nuisance ordinances.

Litigation and Attorney's Fees (Sec. 5-46020)

- Provides that in litigation under this Division, the prevailing party recovers costs and attorney's fees.
- This is designed to empower individuals to challenge unlawful county restrictions without prohibitive legal costs.

Applicability and Limitations (Sec. 5-46025)

This section creates significant exceptions:

- **Height and Shared Roofs**

The Division does not apply to:

- Buildings over 60 feet tall.
- Buildings with a “shared roof” (e.g., condos, common interest associations, multifamily buildings).

- **Shared Roof Carve-outs**

However, the law *does apply* in three scenarios:

- The solar system is entirely within the roof portion owned and maintained by the property owner.
- All property owners sharing the roof agree to the installation.
- The installation is a low-voltage solar-powered device (like solar doorbells or lighting).

Implications

- **Property Owners' Rights:** Creates a statutory “right” to install and operate solar energy systems and small solar devices, limiting county interference.
- **County Preemption:** Counties lose the ability to ban or indirectly block solar, but may still regulate reasonable health/safety/performance standards unless explicitly preempted (the bill doesn't clarify this).
- **HOAs and Condos:** Explicit carve-outs mean homeowners' associations and common interest communities still retain control over shared roofs unless unanimous consent exists.

- **Litigation Incentives:** The attorney’s fee provision incentivizes challenges to unlawful county restrictions and deters counties from passing restrictive ordinances.
- **Policy Alignment:** This bill aligns Illinois with a broader national trend of “solar access” or “solar bill of rights” statutes.

Property Tax Assessments for Commercial Energy Storage Facilities

HB 4116 creates a new Division 22 in the Property Tax Code that establishes how commercial energy storage systems are to be valued and taxed in Illinois. The bill sets up a special statewide assessment framework for commercial energy storage systems outside Cook County. It fixes valuation at \$65/kWh (with trending and depreciation rules), ensures separate parceling for taxation, assigns liability to system owners, allows farmland reversion post-removal, permits abatements, and sunsets in 2040.

- Applies only outside Cook County.
- Effective for assessment years 2026 through 2040.

Key Definitions

- **Commercial Energy Storage System:** Devices that store energy for wholesale/retail sale (not primarily for on-site use), either standalone or tied to a generation system.
- **Cost Basis:** Fixed at \$65 per kWh of rated capacity.
- **Trending Factor:**
 - Stand-alone systems: the lesser of 2% or CPI growth over the 2024 baseline.
 - Systems tied to generation: factor = 1.00 (no trending).
- **Depreciation Allowance:** Based on $\text{age} \div 25 \text{ years} \times \text{cost basis}$; floor is 30% of trended cost basis (system cannot depreciate below 30% value).
- **Obsolescence:** Functional or external obsolescence can reduce value further, but combined depreciation/obsolescence cannot exceed 70% of trended cost basis.

Valuation and Assessment

- Fair cash value = Trended cost basis – physical depreciation – (proven obsolescence).
- County assessors may adjust “system age” if components are replaced/upgraded.
- Systems are not subject to state or local equalization factors.

Survey and Parcel Identification

- Owner must commission a metes and bounds survey of the project area (excluding land held for future development).
- County assessor issues a separate parcel identification number (PIN) for the system and its land.
- If no survey is provided, assessor determines the system area; this determination is final and not reviewable.

Tax Liability

- The system owner is liable for property taxes on both the system improvements and the land in the project area.
- Landowners may pay unpaid taxes to avoid a tax sale, even if they are not the liable party.

Farmland Reversion

- Land previously assessed as farmland may return to farmland assessment once the system is removed and the property is put back to farm use (waiving the usual “2 years of prior farm use” rule).

Tax Abatements

- Taxing districts may, by majority vote, abate any portion of taxes levied on commercial energy storage systems.

Exemption

- Cook County is excluded from this Division.

Applicability

- Applies to assessment years 2026 through 2040.

Amendments to the “Commercial Wind Energy Facilities and Commercial Solar Energy Facilities” Statute

HB 4416 amends the “Commercial Wind Energy Facilities and Commercial Solar Energy Facilities” section of the Counties Code (55 ILCS/5-12020) to make the following changes:

Municipal Zoning Jurisdiction

- Allows a county to regulate the siting of commercial solar energy facilities with standards that are not more restrictive than existing requirements in unincorporated areas of the county that are outside of the zoning jurisdiction of a municipality.

Setbacks

- Allowing a commercial solar energy facility to be sited with setback distances measured from the nearest edge of any above-ground component of the facility, excluding fencing.
- Clarifies that the setback for public rights-of-way must be 50 feet from the nearest edge of the public right-of-way.

Application Fees

- Counties may charge application fees of up to \$5,000 per megawatt of nameplate capacity, capped at \$125,000 total.
- Counties may also require reimbursement of reasonable expenses beyond that cap if incurred in processing the application.

Construction Timetables

- The bill makes the following changes concerning construction/start deadlines:
 - Permits cannot require construction to begin or building permits to be obtained in less than 5 years after approval.
 - Applicants may request an extension for reasonable cause.
 - Counties cannot unreasonably withhold, condition, or deny such extensions.

Building Permits

- Counties may require a single building permit (and fee) that covers the facility and all supporting infrastructure.
- Building permit fee limit: Up to \$5,000 per megawatt, capped at \$75,000 total.
- Counties may require reimbursement of reasonable processing expenses beyond the cap.
- Counties may also require facility owners, once construction begins, to maintain commercially reasonable liability insurance consistent with prevailing industry standards.

HB 4116 sets clear fee caps for siting and building permits on commercial wind and solar projects, while presuming to allow counties to recover excess reasonable expenses. It also provides developers at least five years to begin construction, with extension rights, and permits counties to require industry-standard liability insurance.

Vegetative Screening for Wind and Solar Facilities

- Counties may require vegetative screening (e.g., trees, shrubs) between commercial wind or solar facilities and nonparticipating residences.
 - Counties cannot require earthen berms or similar structures.
 - Screening requirements must be commercially reasonable.
 - Vegetative screening height is limited to prevent reducing solar facility output.
 - At installation (or prior to commercial operation), screening cannot exceed 5 feet in height.
- Factors Counties Must Consider:
 - Facility size and location.
 - Visibility from nonparticipating residences.
 - Use of native plant species.
 - Cost and feasibility of installation/maintenance.
 - Industry standards and best practices for solar facilities.

Road Use Agreements for Wind and Solar Facilities

- **Fee Restrictions**
 - Local governments (including road districts) cannot charge permit fees, fines, or payments for road use agreements beyond actual expenses incurred.
 - Allowable costs include negotiation, execution, construction, or implementation of the agreement.
- **Road Work Limitations**
 - Agreements cannot require facility owners to perform or pay for unrelated road work.
 - Facility owners are only responsible for:
 - Road improvements necessary for project construction.
 - Restoration of roads used during construction activities.

Energy Storage Systems

HB 4116 creates a statewide, uniform framework for county regulation of large (>1 MW) energy storage systems. It sets siting, fee, safety, environmental, decommissioning, and road use standards while preempting counties from imposing stricter or inconsistent requirements.

Definition and Scope

- Applies to energy storage systems >1,000 kW that store electricity for later use (non-combustion).
- Excludes storage tied directly to commercial wind/solar projects.
- Covers facilities, supporting infrastructure, and related agreements.

County Authority

- Counties with zoning authority may establish standards, but:
 - Standards cannot be more restrictive than those in this section.
 - Must be consistent with NFPA 855 (national safety standard).
- Counties without zoning authority may not regulate siting.

Permitting and Hearings

- Counties must hold at least one public hearing on siting/special use applications (within 60 days of filing).
- Decisions must be issued within 30 days after the hearing.
- Counties with conflicting zoning ordinances must amend within 120 days to comply.

Siting Standards

- **Setbacks:**
 - 150 ft from occupied community buildings and nonparticipating residences.
 - 50 ft from property lines and public rights-of-way.
- **Fencing:** Required (7–25 ft height).
- **Noise:** Cannot exceed state Pollution Control Board limits.

- **Lighting:** Must follow Dark-Sky principles; only as needed for safety.

Farmland and Drainage

- Facility owners must file a farmland drainage plan.
- Must repair and compensate for crop losses or agricultural damages caused during construction or decommissioning.

Fees

- Siting approval/special use application fee cap: lesser of \$5,000 per MW or \$50,000.
- Building permit fee cap: lesser of \$5,000 per MW or \$50,000.
- Counties must process building permits within 60 days or approval is deemed granted.

Decommissioning

- Facility owners must provide a decommissioning plan, including:
 - Removal of unused structures to 3 ft depth, soil/vegetation restoration within 18 months.
 - Recycling/reuse efforts.
 - Financial assurance (bond or similar), phased in at 25% (start), 50% (year 5), 100% (year 10), recalculated every 5 years.
- Systems not operating for 12 months (or failing landowner payments for 6 months) are deemed abandoned, unless due to force majeure or excused interruption.

Environmental and Historic Protections

Counties may require:

- DNR consultation (EcoCAT or successor tools).
- US Fish and Wildlife Service review.
- Avoidance or setbacks from protected lands.
- Consultation with the Illinois Historic Preservation Division for historic site impacts.

Safety and Compliance

- Must comply with NFPA 855, National Electrical Code, and ICC/FERC standards.
- Counties may require:
 - Commissioning report.
 - Hazard mitigation analysis.
 - Emergency operations plan.
 - Warnings and UL certification (UL 1973 and UL 9540).
- Facility owners must provide fire/emergency responder training before operation.

Road Use Agreements

- Facility owners must pay for road improvements/repairs directly related to construction.
- Counties/local units may only recover actual expenses; no unrelated road work may be required.

Other Restrictions

- Counties may not:
 - Require property value guarantees or escrow accounts.
 - Prohibit periodic augmentation to maintain system capacity.
 - Ban siting in agricultural or industrial zones

Applicability

- Applies prospectively; does not apply to applications submitted before the law's effective date.