



Reprinted
February 17, 2021

HOUSE BILL No. 1381

DIGEST OF HB 1381 (Updated February 16, 2021 6:08 pm - DI 101)

Citations Affected: IC 8-1; IC 36-1; IC 36-7.

Synopsis: Commercial wind and solar standards and siting. Establishes default standards concerning the following with respect to developments to install or locate wind power devices in local units: (1) Setback requirements. (2) Height restrictions. (3) Shadow flicker limitations. (4) Signal interference. (5) Sound level limitations. (6) Project decommissioning. Provides that a permit authority for a local unit may not restrict, or impose conditions or limitations on, the construction, installation, siting, modification, operation, or decommissioning of wind power devices in the unit unless the unit first adopts a wind power regulation. Provides that a permit authority may not impose standards that: (1) concern wind power devices in the unit; and (2) are more restrictive than the default standards. Specifies that a unit may do the following: (1) Adopt and enforce a wind power regulation that includes standards that are less restrictive than the default wind power standards set forth in the bill. (2) Waive or make less restrictive any standard set forth in: (A) the bill's default wind power standards; or (B) a wind power regulation adopted by the unit; with respect to any one wind power device, subject to the consent of each owner of property on which, or adjacent to where, the particular wind power device will be located. Establishes procedures for the permitting or approval process for the siting of wind power devices in
(Continued next page)

Effective: Upon passage; July 1, 2021.

Soliday, Negele

January 14, 2021, read first time and referred to Committee on Utilities, Energy and Telecommunications.
February 11, 2021, amended, reported — Do Pass.
February 16, 2021, read second time, amended, ordered engrossed.

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Digest Continued

a local unit. Sets forth various elements of the required procedures. Specifies that the bill's default standards and permitting procedures for wind power devices do not: (1) apply to proposals, requests, or applications that: (A) concern wind power devices; (B) are submitted to a unit before July 1, 2021; and (C) are pending as of July 1, 2021; (2) affect the construction, installation, siting, modification, operation, or decommissioning of a wind power device in a unit that has approved such an activity before July 1, 2021; or (3) affect any: (A) economic development agreement; or (B) other agreement; entered before July 1, 2021, with respect to one or more wind power devices in one or more units. Establishes default standards concerning the following with respect to projects to install or locate commercial solar energy systems (CSE systems) in a unit: (1) Setback requirements. (2) Height restrictions. (3) Ground cover. (4) Fencing. (5) Cables. (6) Glare. (7) Signal interference. (8) Sound level limitations. (9) Project decommissioning. Provides that a permit authority for a local unit may not restrict, or impose conditions or limitations on, the construction, installation, siting, modification, operation, or decommissioning of CSE systems in the unit unless the unit first adopts a commercial solar regulation. Provides that a permit authority may not impose standards that: (1) concern CSE systems in the unit; and (2) are more restrictive than the default standards. Specifies that a unit may do the following: (1) Adopt and enforce a commercial solar regulation that includes standards that are less restrictive than the default CSE system standards set forth in the bill. (2) Waive or make less restrictive any standard set forth in: (A) the bill's default CSE system standards; or (B) a commercial solar regulation adopted by the unit; with respect to any one CSE system, subject to the consent of each owner of property on which, or adjacent to where, the particular CSE system will be located. Establishes procedures for the permitting or approval process for the siting of CSE systems in a local unit. Sets forth various elements of the required procedures. Specifies that the bill's default standards and permitting procedures for CSE systems do not: (1) apply to proposals, requests, or applications that: (A) concern CSE systems; (B) are submitted to a unit before July 1, 2021; and (C) are pending as of July 1, 2021; (2) affect the construction, installation, siting, modification, operation, or decommissioning of a CSE system in a unit that has approved such an activity before July 1, 2021; or (3) affect any: (A) economic development agreement; or (B) other agreement; entered before July 1, 2021, with respect to one or more CSE systems in one or more units. Makes conforming amendments to Indiana's home rule statute.



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February 17, 2021

First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1381

A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 8-1-41 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:
4 **Chapter 41. Default Standards for Wind Power Devices**
5 **Sec. 1. (a) Except as provided in subsections (b) and (c), this**
6 **chapter applies to a project owner that, after June 30, 2021, files an**
7 **initial application under IC 36-7-5.3-9 to install or locate one (1) or**
8 **more wind power devices in a unit that:**
9 **(1) has not adopted a wind power regulation; or**
10 **(2) has:**
11 **(A) adopted a wind power regulation that includes**
12 **standards that are more restrictive, directly or indirectly,**
13 **than the standards set forth in this chapter; and**
14 **(B) failed to amend the wind power regulation as required**
15 **by IC 36-1-3-8.7(g).**
16 **(b) Subject to a unit's planning and zoning powers under**
17 **IC 36-7, this chapter does not apply to a property owner who seeks**

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1 to install a wind power device on the property owner's premises for
 2 the purpose of generating electricity to meet or offset all or part of
 3 the need for electricity on the premises, whether through
 4 distributed generation, participation in a net metering or feed-in
 5 tariff program offered by an electricity supplier (as defined in
 6 IC 8-1-40-4), or otherwise.

7 (c) This chapter does not:

8 (1) apply to any proposal, request, or application that:

9 (A) concerns the construction, installation, siting,
 10 modification, operation, or decommissioning of one (1) or
 11 more wind power devices in a unit;

12 (B) is submitted by a project owner to a unit before July 1,
 13 2021; and

14 (C) is pending as of July 1, 2021;

15 as set forth in IC 36-7-4-1109, regardless of whether the unit
 16 is a unit described in subsection (a);

17 (2) affect the:

18 (A) construction;

19 (B) installation;

20 (C) siting;

21 (D) modification;

22 (E) operation; or

23 (F) decommissioning;

24 of one (1) or more wind power devices in a unit that before
 25 July 1, 2021, has approved such construction, installation,
 26 siting, modification, operation, or decommissioning,
 27 regardless of whether the unit is a unit described in subsection
 28 (a); or

29 (3) affect any:

30 (A) economic development agreement; or

31 (B) other agreement;

32 entered before July 1, 2021, with respect to the construction,
 33 installation, siting, modification, operation, or
 34 decommissioning of one (1) or more wind power devices in
 35 one (1) or more units.

36 Sec. 2. As used in this chapter, "dwelling" means any building,
 37 structure, or part of a building or structure that is occupied as, or
 38 is designed or intended for occupancy as, a residence by one (1) or
 39 more families or individuals.

40 Sec. 3. (a) As used in this chapter, "nonparticipating property"
 41 means a lot or parcel of real property:

42 (1) that is not owned by a project owner; and



- 1 **(2) with respect to which:**
 2 **(A) the project owner does not seek:**
 3 **(i) to install or locate one (1) or more wind power devices**
 4 **or other facilities related to a wind power project**
 5 **(including power lines, temporary or permanent access**
 6 **roads, or other temporary or permanent infrastructure);**
 7 **or**
 8 **(ii) to otherwise enter into a lease or any other**
 9 **agreement with the owner of the property for use of all**
 10 **or part of the property in connection with a wind power**
 11 **project; or**
 12 **(B) the owner of the property does not consent:**
 13 **(i) to having one (1) or more wind power devices or other**
 14 **facilities related to a wind power project (including**
 15 **power lines, temporary or permanent access roads, or**
 16 **other temporary or permanent infrastructure) installed**
 17 **or located; or**
 18 **(ii) to otherwise enter into a lease or any other**
 19 **agreement with the project owner for use of all or part**
 20 **of the property in connection with a wind power project.**
 21 **(b) The term does not include a lot or parcel of real property**
 22 **otherwise described in subsection (a) if the owner of the lot or**
 23 **parcel consents to participate in a wind power project through a**
 24 **neighbor agreement, a participation agreement, or another similar**
 25 **arrangement or agreement with a project owner.**
 26 **Sec. 4. (a) As used in this chapter, "permit authority" means:**
 27 **(1) a unit; or**
 28 **(2) a board, a commission, or any other governing body of a**
 29 **unit;**
 30 **that makes legislative or administrative decisions concerning the**
 31 **construction, installation, siting, modification, operation, or**
 32 **decommissioning of wind power devices in the unit.**
 33 **(b) The term does not include:**
 34 **(1) the state or any of its agencies, departments, boards,**
 35 **commissions, authorities, or instrumentalities; or**
 36 **(2) a court or other judicial body that reviews decisions or**
 37 **rulings made by a permit authority.**
 38 **Sec. 5. (a) As used in this chapter, "project owner" means a**
 39 **person that:**
 40 **(1) will own one (1) or more wind power devices proposed to**
 41 **be located in a unit; or**
 42 **(2) owns one (1) or more wind power devices located in a unit.**



1 (b) The term includes an agent or a representative of a person
2 described in subsection (a).

3 Sec. 6. (a) As used in this chapter, "unit" refers to:

4 (1) a county, if a project owner, as part of a single wind power
5 project or development, seeks to locate one (1) or more wind
6 power devices:

7 (A) entirely within unincorporated areas of the county;

8 (B) within both unincorporated areas of the county and
9 one (1) or more municipalities within the county; or

10 (C) entirely within two (2) or more municipalities within
11 the county; or

12 (2) a municipality, if:

13 (A) a project owner, as part of a single wind power project
14 or development, seeks to locate one (1) or more wind
15 power devices entirely within the boundaries of the
16 municipality; and

17 (B) subdivision (1)(B) or (1)(C) does not apply.

18 (b) The term refers to:

19 (1) each county described in subsection (a)(1) in which a
20 project owner seeks to locate one (1) or more wind power
21 devices, if the project owner seeks to locate wind power
22 devices in more than one (1) county as part of a single wind
23 power project or development; and

24 (2) each municipality described in subsection (a)(2) in which
25 a project owner seeks to locate one (1) or more wind power
26 devices, if the project owner seeks to locate wind power
27 devices in two (2) or more municipalities, each of which is
28 located in a different county.

29 Sec. 7. As used in this chapter, "wind power device" means a
30 device, including a windmill or a wind turbine, that is designed to
31 use the kinetic energy of moving air to provide mechanical energy
32 or to produce electricity.

33 Sec. 8. As used in this chapter, "wind power regulation" refers
34 to any ordinance or regulation, including any:

35 (1) zoning or land use ordinance or regulation; or

36 (2) general or specific planning ordinance or regulation;

37 that is adopted by a unit and that concerns the construction,
38 installation, siting, modification, operation, or decommissioning of
39 wind power devices in the unit.

40 Sec. 9. (a) Except as provided in subsection (d) and section 1(b)
41 and 1(c) of this chapter, the standards set forth in sections 10
42 through 14 of this chapter apply with respect to any proposal by a



1 project owner to install or locate one (1) or more wind power
 2 devices in a unit described in section 1(a) of this chapter after June
 3 30, 2021. The permit authority for a unit described in section
 4 1(a)(1) of this chapter may not, directly or indirectly, restrict, or
 5 impose conditions or limitations on, the construction, installation,
 6 siting, modification, operation, or decommissioning of one (1) or
 7 more wind power devices in the unit unless the unit first adopts a
 8 wind power regulation, as required by IC 36-1-3-8.7(f)(1).
 9 However, in no case may any unit impose standards, whether by
 10 regulation or otherwise, that:

11 (1) concern the construction, installation, siting, modification,
 12 operation, or decommissioning of wind power devices in the
 13 unit; and

14 (2) are more restrictive, directly or indirectly, than the
 15 standards set forth in this chapter;

16 as provided in IC 36-1-3-8.7(f)(3).

17 (b) Except as provided in:

18 (1) subsection (a);

19 (2) IC 36-1-3-8.7; and

20 (3) IC 36-7-5.3;

21 this chapter does not otherwise affect a unit's planning and zoning
 22 powers under IC 36-7 with respect to the installation or siting of
 23 one (1) or more wind power devices in the unit.

24 (c) A permit authority for a unit described in section 1(a) of this
 25 chapter is responsible for enforcing compliance with:

26 (1) this chapter;

27 (2) IC 36-7-5.3; and

28 (3) in the case of a unit described in section 1(a)(2) of this
 29 chapter, any part of the unit's wind power regulation, to the
 30 extent such part is not:

31 (A) more restrictive than this chapter; or

32 (B) inconsistent with IC 36-7-5.3.

33 (d) A unit may:

34 (1) adopt and enforce a wind power regulation that includes
 35 standards that:

36 (A) concern the construction, installation, siting,
 37 modification, operation, or decommissioning of wind
 38 power devices in the unit; and

39 (B) are less restrictive than the standards set forth in this
 40 chapter; or

41 (2) waive or make less restrictive any standard set forth in:

42 (A) this chapter; or



- 1 **(B) a wind power regulation adopted by the unit in**
 2 **compliance with IC 36-1-3-8.7(f)(3);**
 3 **with respect to any one (1) wind power device, subject to the**
 4 **consent of each owner of property on which, or adjacent to**
 5 **where, the particular wind power device will be located.**
- 6 **Sec. 10. (a) Subject to subsection (f), and except as otherwise**
 7 **allowed by IC 36-7-4-1109, a project owner may not install or**
 8 **locate a wind power device on property in a unit unless the**
 9 **distance, measured as a straight line, from the vertical centerline**
 10 **of the base of the wind power device to:**
- 11 **(1) the centerline of any:**
- 12 **(A) runway located on a public use airport, private use**
 13 **airport, or municipal airport;**
 14 **(B) public use highway, street, or road; or**
 15 **(C) railroad easement or right-of-way; or**
- 16 **(2) the property line of any nonparticipating property;**
 17 **is equal to a distance that is at least one and one-tenth (1.1) times**
 18 **the wind power device's blade tip height, as measured from the**
 19 **ground to the tip of the blade.**
- 20 **(b) Subject to subsection (f), and except as otherwise allowed by**
 21 **IC 36-7-4-1109, a project owner may not install or locate a wind**
 22 **power device on property in a unit unless the distance, measured**
 23 **as a straight line, from the vertical centerline of the base of the**
 24 **wind power device to the nearest point on the outer wall of a**
 25 **dwelling located on a nonparticipating property is equal to a**
 26 **distance that is at least three (3) times the wind power device's**
 27 **blade tip height, as measured from the ground to the tip of the**
 28 **blade.**
- 29 **(c) Except as otherwise allowed by IC 36-7-4-1109, a project**
 30 **owner may not install or locate a wind power device on property**
 31 **in a unit unless the distance, measured as a straight line, from the**
 32 **vertical centerline of the base of the wind power device to the**
 33 **nearest edge of the right-of-way for any utility transmission or**
 34 **distribution line is equal to a distance that is at least one and**
 35 **two-tenths (1.2) times the wind power device's blade tip height, as**
 36 **measured from the ground to the tip of the blade.**
- 37 **(d) Except as otherwise allowed by IC 36-7-4-1109, a project**
 38 **owner may not install or locate a wind power device on property**
 39 **in a unit unless the distance, measured as a straight line, from the**
 40 **vertical centerline of the base of the wind power device to the**
 41 **property line of any undeveloped land within the unit that is zoned**
 42 **or platted for residential use is equal to a distance that is at least**



1 two (2) times the wind power device's blade tip height, as measured
2 from the ground to the tip of the blade.

3 (e) Except as otherwise allowed by IC 36-7-4-1109, a permit
4 authority, with respect to the siting or construction of any wind
5 power device within the unit, may not set a blade tip height
6 limitation, through a wind power regulation or otherwise, that is
7 more restrictive than the standards of the Federal Aviation
8 Administration under 14 CFR Part 77 concerning the safe, efficient
9 use and preservation of the navigable airspace.

10 (f) The distance requirements set forth in subsections (a)(2) and
11 (b) may be waived with respect to the siting of any one (1) wind
12 power device, subject to the written consent of the owner of each
13 affected nonparticipating property.

14 Sec. 11. (a) Subject to subsection (c), and except as otherwise
15 allowed by IC 36-7-4-1109, a project owner may not install or
16 locate one (1) or more wind power devices in a unit unless the
17 project owner demonstrates to the permit authority that with
18 respect to each wind power device that the project owner seeks to
19 install or locate in the unit:

20 (1) the project owner has used shadow flicker computer
21 modeling to estimate the amount of shadow flicker anticipated
22 to be caused by the wind power device; and

23 (2) the wind power device has been designed such that
24 industry standard computer modeling indicates that any
25 dwelling on a nonparticipating property within the unit will
26 not experience more than thirty (30) hours per year of shadow
27 flicker under planned operating conditions for the wind
28 power device.

29 (b) After a project owner installs or locates a wind power device
30 in a unit, as authorized by the permit authority in accordance with
31 this chapter and IC 36-7-5.3, the project owner shall work with the
32 owner of any affected dwelling on a nonparticipating property to
33 mitigate the effects of shadow flicker to the extent reasonably
34 practicable.

35 (c) The requirement set forth in subsection (a)(2) may be waived
36 with respect to any one (1) wind power device, subject to the
37 written consent of the owner of each affected nonparticipating
38 property.

39 Sec. 12. Except as otherwise allowed by IC 36-7-4-1109, a wind
40 power device installed in a unit must be installed in a manner so as
41 to minimize and mitigate impacts to:

42 (1) television signals;



- 1 (2) microwave signals;
 2 (3) agricultural global positioning systems;
 3 (4) military defense radar;
 4 (5) radio reception; or
 5 (6) weather and doppler radar.
- 6 **Sec. 13. (a) Subject to subsection (b), and except as otherwise**
 7 **allowed by IC 36-7-4-1109, a project owner may not install or**
 8 **locate a wind power device in a unit unless the project owner**
 9 **demonstrates to the permit authority that the wind power device**
 10 **will operate in a manner such that the sound attributable to the**
 11 **wind power device will not exceed an hourly average sound level**
 12 **of fifty (50) A-weighted decibels, as modeled at the outer wall of an**
 13 **affected dwelling.**
- 14 **(b) The requirement set forth in subsection (a) may be waived**
 15 **with respect to any one (1) wind power device, subject to the**
 16 **written consent of the owner of each affected property.**
- 17 **Sec. 14. (a) Subject to subsection (b), and except as otherwise**
 18 **allowed by IC 36-7-4-1109, a project owner may not install or**
 19 **locate a wind power device in a unit unless the project owner**
 20 **submits to the permit authority the decommissioning and site**
 21 **restoration plan required by IC 36-7-5.3-9(a)(9), and posts a surety**
 22 **bond, or an equivalent means of security acceptable to the permit**
 23 **authority, including a parent company guarantee or an irrevocable**
 24 **letter of credit, in an amount equal to the estimated cost of**
 25 **decommissioning the wind power device, as calculated by a third**
 26 **party licensed or registered engineer, or by another person with**
 27 **suitable experience in the decommissioning of wind power devices,**
 28 **as agreed upon by the project owner and the permit authority. The**
 29 **required bond or other security shall be posted in increments such**
 30 **that the total amount of the bond or security posted is as follows:**
- 31 **(1) An amount equal to twenty-five percent (25%) of the total**
 32 **estimated decommissioning costs not later than the start date**
 33 **of the wind power device's full commercial operation. For**
 34 **purposes of this subdivision, the total estimated**
 35 **decommissioning costs shall be reevaluated by a third party**
 36 **licensed or registered engineer (or by another person with**
 37 **suitable experience in the decommissioning of wind power**
 38 **devices, as agreed upon by the project owner and the permit**
 39 **authority) before the:**
- 40 **(A) fifth anniversary; and**
 41 **(B) tenth anniversary;**
 42 **of the start date of the wind power device's full commercial**



1 operation, and the total amount of the bond or security posted
2 under this subdivision shall be adjusted as necessary after
3 each reevaluation.

4 (2) An amount equal to fifty percent (50%) of the total
5 estimated decommissioning costs not later than the fifteenth
6 anniversary of the start date of the wind power device's full
7 commercial operation. For purposes of this subdivision, the
8 total estimated decommissioning costs shall be reevaluated by
9 a third party licensed or registered engineer (or by another
10 person with suitable experience in the decommissioning of
11 wind power devices, as agreed upon by the project owner and
12 the permit authority) before the fifteenth anniversary of the
13 start date of the wind power device's full commercial
14 operation, and the total amount of the bond or security posted
15 under this subdivision shall be adjusted as necessary after the
16 reevaluation.

17 (3) An amount equal to one hundred percent (100%) of the
18 total estimated decommissioning costs not later than the
19 twentieth anniversary of the start date of the wind power
20 device's full commercial operation. For purposes of this
21 subdivision, the total estimated decommissioning costs shall
22 be reevaluated by a third party licensed or registered
23 engineer (or by another person with suitable experience in the
24 decommissioning of wind power devices, as agreed upon by
25 the project owner and the permit authority):

26 (A) before the twentieth anniversary of the start date of the
27 wind power device's full commercial operation; and

28 (B) upon every succeeding five (5) year period after the
29 twentieth anniversary of the start date of the wind power
30 device's full commercial operation;

31 and the total amount of the bond or security posted under this
32 subdivision shall be adjusted as necessary after each
33 reevaluation.

34 (b) For purposes of this section, the estimated cost of
35 decommissioning a wind power device, as calculated by a licensed
36 or registered professional engineer (or by another person with
37 suitable experience in the decommissioning of wind power devices,
38 as agreed upon by the project owner and the permit authority),
39 shall be the net of any estimated salvage value attributable to the
40 wind power device at the time of decommissioning, unless the unit
41 and the project owner agree to include any such value in the
42 estimated cost.



1 SECTION 2. IC 8-1-42 IS ADDED TO THE INDIANA CODE AS
 2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
 3 PASSAGE]:

4 **Chapter 42. Default Standards for Commercial Solar Energy**
 5 **Systems**

6 **Sec. 1. (a) Except as provided in subsections (b) and (c), this**
 7 **chapter applies to a project owner that, after June 30, 2021, files an**
 8 **initial application under IC 36-7-5.4-9 to install or locate one (1) or**
 9 **more commercial solar energy systems in a unit that:**

10 (1) has not adopted a commercial solar regulation; or

11 (2) has:

12 (A) adopted a commercial solar regulation that includes
 13 standards that are more restrictive, directly or indirectly,
 14 than the standards set forth in this chapter; and

15 (B) failed to amend the commercial solar regulation as
 16 required by IC 36-1-3-8.8(g).

17 (b) Subject to a unit's planning and zoning powers under
 18 IC 36-7, this chapter does not apply to a property owner who seeks
 19 to install a solar energy device (as defined in IC 32-23-4-3) on the
 20 property owner's premises for the purpose of generating electricity
 21 to meet or offset all or part of the need for electricity on the
 22 premises, whether through distributed generation, participation in
 23 a net metering or feed-in tariff program offered by an electricity
 24 supplier (as defined in IC 8-1-40-4), or otherwise.

25 (c) This chapter does not:

26 (1) apply to any proposal, request, or application that:

27 (A) concerns the construction, installation, siting,
 28 modification, operation, or decommissioning of one (1) or
 29 more CSE systems in a unit;

30 (B) is submitted by a project owner to a unit before July 1,
 31 2021; and

32 (C) is pending as of July 1, 2021;

33 as set forth in IC 36-7-4-1109, regardless of whether the unit
 34 is a unit described in subsection (a);

35 (2) affect the:

36 (A) construction;

37 (B) installation;

38 (C) siting;

39 (D) modification;

40 (E) operation; or

41 (F) decommissioning;

42 of one (1) or more CSE systems in a unit that before July 1,



1 **2021, has approved such construction, installation, siting,**
 2 **modification, operation, or decommissioning, regardless of**
 3 **whether the unit is a unit described in subsection (a); or**
 4 **(3) affect any:**

5 **(A) economic development agreement; or**

6 **(B) other agreement;**

7 **entered before July 1, 2021, with respect to the construction,**
 8 **installation, siting, modification, operation, or**
 9 **decommissioning of one (1) or more CSE systems in one (1) or**
 10 **more units.**

11 **Sec. 2. (a) As used in this chapter, "commercial solar energy**
 12 **system", or "CSE system", means a system that:**

13 **(1) has a nameplate capacity of at least ten (10) megawatts;**
 14 **and**

15 **(2) captures and converts solar energy into electricity:**

16 **(A) for the purpose of selling the electricity at wholesale;**
 17 **and**

18 **(B) for use in locations other than where it is generated.**

19 **(b) The term includes collection and feeder lines, generation tie**
 20 **lines, substations, ancillary buildings, solar monitoring stations,**
 21 **and accessory equipment or structures.**

22 **Sec. 3. As used in this chapter, "commercial solar regulation"**
 23 **refers to any ordinance or regulation, including any:**

24 **(1) zoning or land use ordinance or regulation; or**

25 **(2) general or specific planning ordinance or regulation;**

26 **that is adopted by a unit and that concerns the construction,**
 27 **installation, siting, modification, operation, or decommissioning of**
 28 **CSE systems in the unit.**

29 **Sec. 4. As used in this chapter, "dwelling" means any building,**
 30 **structure, or part of a building or structure that is occupied as, or**
 31 **is designed or intended for occupancy as, a residence by one (1) or**
 32 **more families or individuals.**

33 **Sec. 5. (a) As used in this chapter, "nonparticipating property"**
 34 **means a lot or parcel of real property:**

35 **(1) that is not owned by a project owner; and**

36 **(2) with respect to which:**

37 **(A) the project owner does not seek:**

38 **(i) to install or locate one (1) or more CSE systems or**
 39 **other facilities related to a CSE system project (including**
 40 **power lines, temporary or permanent access roads, or**
 41 **other temporary or permanent infrastructure); or**

42 **(ii) to otherwise enter into a lease or any other**



1 agreement with the owner of the property for use of all
 2 or part of the property in connection with a CSE system
 3 project; or
 4 **(B) the owner of the property does not consent:**
 5 **(i) to having one (1) or more CSE systems or other**
 6 **facilities related to a CSE system project (including**
 7 **power lines, temporary or permanent access roads, or**
 8 **other temporary or permanent infrastructure) installed**
 9 **or located; or**
 10 **(ii) to otherwise enter into a lease or any other**
 11 **agreement with the project owner for use of all or part**
 12 **of the property in connection with a CSE system project.**
 13 **(b) The term does not include a lot or parcel of real property**
 14 **otherwise described in subsection (a) if the owner of the lot or**
 15 **parcel consents to participate in a CSE system project through a**
 16 **neighbor agreement, a participation agreement, or another similar**
 17 **arrangement or agreement with a project owner.**
 18 **Sec. 6. (a) As used in this chapter, "permit authority" means:**
 19 **(1) a unit; or**
 20 **(2) a board, a commission, or any other governing body of a**
 21 **unit;**
 22 **that makes legislative or administrative decisions concerning the**
 23 **construction, installation, siting, modification, operation, or**
 24 **decommissioning of CSE systems in the unit.**
 25 **(b) The term does not include:**
 26 **(1) the state or any of its agencies, departments, boards,**
 27 **commissions, authorities, or instrumentalities; or**
 28 **(2) a court or other judicial body that reviews decisions or**
 29 **rulings made by a permit authority.**
 30 **Sec. 7. (a) As used in this chapter, "project owner" means a**
 31 **person that:**
 32 **(1) will own one (1) or more CSE systems proposed to be**
 33 **located in a unit; or**
 34 **(2) owns one (1) or more CSE systems located in a unit.**
 35 **(b) The term includes an agent or a representative of a person**
 36 **described in subsection (a).**
 37 **Sec. 8. (a) As used in this chapter, "unit" refers to:**
 38 **(1) a county, if a project owner, as part of a single CSE system**
 39 **project or development, seeks to locate one (1) or more CSE**
 40 **systems:**
 41 **(A) entirely within unincorporated areas of the county;**
 42 **(B) within both unincorporated areas of the county and**



- 1 one (1) or more municipalities within the county; or
 2 (C) entirely within two (2) or more municipalities within
 3 the county; or
 4 (2) a municipality, if:
 5 (A) a project owner, as part of a single CSE system project
 6 or development, seeks to locate one (1) or more CSE
 7 systems entirely within the boundaries of the municipality;
 8 and
 9 (B) subdivision (1)(B) or (1)(C) does not apply.
 10 (b) The term refers to:
 11 (1) each county described in subsection (a)(1) in which a
 12 project owner seeks to locate one (1) or more CSE systems, if
 13 the project owner seeks to locate CSE systems in more than
 14 one (1) county as part of a single CSE system project or
 15 development; and
 16 (2) each municipality described in subsection (a)(2) in which
 17 a project owner seeks to locate one (1) or more CSE systems,
 18 if the project owner seeks to locate CSE systems in two (2) or
 19 more municipalities, each of which is located in a different
 20 county.
 21 Sec. 9. (a) Except as provided in subsection (d) and section 1(b)
 22 and 1(c) of this chapter, the standards set forth in sections 10
 23 through 19 of this chapter apply with respect to any proposal by a
 24 project owner to install or locate one (1) or more CSE systems in
 25 a unit described in section 1(a) of this chapter after June 30, 2021.
 26 The permit authority for a unit described in section 1(a)(1) of this
 27 chapter may not, directly or indirectly, restrict, or impose
 28 conditions or limitations on, the construction, installation, siting,
 29 modification, operation, or decommissioning of one (1) or more
 30 CSE systems in the unit unless the unit first adopts a commercial
 31 solar regulation, as required by IC 36-1-3-8.8(f)(1). However, in no
 32 case may any unit impose standards, whether by regulation or
 33 otherwise, that:
 34 (1) concern the construction, installation, siting, modification,
 35 operation, or decommissioning of CSE systems in the unit;
 36 and
 37 (2) are more restrictive, directly or indirectly, than the
 38 standards set forth in this chapter;
 39 as provided in IC 36-1-3-8.8(f)(3).
 40 (b) Except as provided in:
 41 (1) subsection (a);
 42 (2) IC 36-1-3-8.8; and



- 1 **(3) IC 36-7-5.4;**
- 2 **this chapter does not otherwise affect a unit's planning and zoning**
- 3 **powers under IC 36-7 with respect to the installation or siting of**
- 4 **one (1) or more CSE systems in the unit.**
- 5 **(c) A permit authority for a unit described in section 1(a) of this**
- 6 **chapter is responsible for enforcing compliance with:**
- 7 **(1) this chapter;**
- 8 **(2) IC 36-7-5.4; and**
- 9 **(3) in the case of a unit described in section 1(a)(2) of this**
- 10 **chapter, any part of the unit's commercial solar regulation, to**
- 11 **the extent such part is not:**
- 12 **(A) more restrictive than this chapter; or**
- 13 **(B) inconsistent with IC 36-7-5.4.**
- 14 **(d) A unit may:**
- 15 **(1) adopt and enforce a commercial solar regulation that**
- 16 **includes standards that:**
- 17 **(A) concern the construction, installation, siting,**
- 18 **modification, operation, or decommissioning of CSE**
- 19 **systems in the unit; and**
- 20 **(B) are less restrictive than the standards set forth in this**
- 21 **chapter; or**
- 22 **(2) waive or make less restrictive any standard set forth in:**
- 23 **(A) this chapter; or**
- 24 **(B) a commercial solar regulation adopted by the unit in**
- 25 **compliance with IC 36-1-3-8.8(f)(3);**
- 26 **with respect to any one (1) CSE system, subject to the consent**
- 27 **of each owner of property on which, or adjacent to where, the**
- 28 **particular CSE system will be located.**
- 29 **Sec. 10. (a) Subject to subsection (d), and except as otherwise**
- 30 **allowed by IC 36-7-4-1109, a project owner may not install or**
- 31 **locate a CSE system on property in a unit unless the distance,**
- 32 **measured as a straight line, from the nearest outer edge of the CSE**
- 33 **system to:**
- 34 **(1) the nearest edge of the right-of-way for any:**
- 35 **(A) federal interstate highway, federal highway, state**
- 36 **highway, or county highway is at least forty (40) feet;**
- 37 **(B) collector road is at least thirty (30) feet; or**
- 38 **(C) local road is at least ten (10) feet; or**
- 39 **(2) the property line of any nonparticipating property is at**
- 40 **least fifty (50) feet.**
- 41 **(b) Subject to subsection (d), and except as otherwise allowed by**
- 42 **IC 36-7-4-1109, a project owner may not install or locate a CSE**



1 system on property in a unit unless the distance, measured as a
 2 straight line, from the nearest outer edge of the CSE system to the
 3 nearest point on the outer wall of a dwelling located on a
 4 nonparticipating property is at least one hundred fifty (150) feet.

5 (c) Subject to subsection (d), and except as otherwise allowed by
 6 IC 36-7-4-1109, if a project owner installs a CSE system within a
 7 distance of two hundred fifty (250) feet, measured as a straight
 8 line, from the nearest outer edge of the CSE system to the nearest
 9 point on the outer wall of a dwelling located on a nonparticipating
 10 property, the project owner shall install a landscape buffer in the
 11 area between the nearest outer edge of the CSE system and the
 12 outer wall of the dwelling located on the nonparticipating
 13 property:

14 (1) in a location; and

15 (2) constructed from such materials;

16 as set forth in a plan submitted to the unit in the application
 17 required under IC 36-7-5.4-9 during the permitting and approval
 18 process for the CSE system.

19 (d) Except as otherwise allowed by IC 36-7-4-1109, a project
 20 owner may not install or locate a CSE system on property in a unit
 21 unless the height of the CSE system solar panels are not more than
 22 twenty-five (25) feet above ground level when the CSE system's
 23 arrays are at full tilt. However, a permit authority or a unit may
 24 not impose a clearance requirement between the ground and the
 25 bottom edge of a CSE system's solar panels.

26 (e) The:

27 (1) distance requirements set forth in subsection (a)(2) and
 28 subsection (b); and

29 (2) requirement for the installation of a landscape buffer set
 30 forth in subsection (c);

31 may be waived with respect to the siting of any one (1) CSE system,
 32 subject to the written consent of the owner of each affected
 33 nonparticipating property.

34 Sec. 11. Except as otherwise allowed by IC 36-7-4-1109, if a
 35 project owner installs a CSE system in a unit, the project owner
 36 shall plant, establish, and maintain for the life of the CSE system
 37 perennial vegetated ground cover on the ground around and under
 38 solar panels, and in project site buffer areas. The use of pollinator
 39 seed mixes in the planting of ground cover required by this section
 40 is encouraged. A unit or permit authority may require a project
 41 owner to prepare for a project site a vegetation plan that:

42 (1) is compatible with each CSE system on the project site;



1 (2) provides for the planting of noninvasive species and the
 2 use of native or naturalized species if the planting and use of
 3 noninvasive and native or naturalized species are:

- 4 (A) appropriate to the region;
 5 (B) economically feasible; and
 6 (C) agreed to by the landowner;

7 in order to reduce storm water runoff and erosion at the site
 8 and to provide habitat for wildlife and insects; and

9 (3) provides for site preparation and maintenance practices
 10 designed to control invasive species and noxious weeds (as
 11 defined in IC 15-16-7-2).

12 Sec. 12. Except as otherwise allowed by IC 36-7-4-1109, if a
 13 project owner installs a CSE system in a unit, the project owner
 14 shall completely enclose the CSE system with fencing that is at
 15 least six (6) feet high.

16 Sec. 13. Except as otherwise allowed by IC 36-7-4-1109, if a
 17 project owner installs a CSE system in a unit, all cables of up to
 18 thirty-four and one-half (34.5) kilovolts that are located between
 19 inverter locations and project substations shall be located and
 20 maintained underground. Other solar infrastructure, such as
 21 module-to-module collection cables, transmission lines, substations,
 22 junction boxes, and other typical aboveground infrastructure may
 23 be located and maintained above ground. Buried cables shall be at
 24 a depth of at least thirty-six (36) inches below grade or, if
 25 necessitated by onsite conditions, at a greater depth. Cables and
 26 lines located outside of the CSE system project site may:

- 27 (1) be located above ground; or
 28 (2) in the case of cables or lines of up to thirty-four and
 29 one-half (34.5) kilovolts, be buried underground at:
 30 (A) a depth of at least forty-eight (48) inches below grade,
 31 so as to not interfere with drainage tile or ditch repairs; or
 32 (B) another depth, as necessitated by conditions;
 33 as determined in consultation with the landowner.

34 Sec. 14. Except as otherwise allowed by IC 36-7-4-1109, a CSE
 35 system installed by a project owner must be designed and
 36 constructed to:

- 37 (1) minimize glare on adjacent properties and roadways; and
 38 (2) not interfere with vehicular traffic, including air traffic.

39 Sec. 15. Except as otherwise allowed by IC 36-7-4-1109, a CSE
 40 system installed in a unit must be installed in a manner so as to
 41 minimize and mitigate impacts to:

- 42 (1) television signals;



- 1 (2) microwave signals;
- 2 (3) agricultural global positioning systems;
- 3 (4) military defense radar;
- 4 (5) radio reception; or
- 5 (6) weather and doppler radar.

6 **Sec. 16. (a)** Subject to subsection (b), and except as otherwise
 7 allowed by IC 36-7-4-1109, a project owner may not install or
 8 locate a CSE system in a unit unless the project owner
 9 demonstrates to the permit authority that the CSE system will
 10 operate in a manner such that the sound attributable to the CSE
 11 system will not exceed an hourly average sound level of sixty (60)
 12 A-weighted decibels, as modeled at the outer wall of a dwelling
 13 located on an adjacent nonparticipating property.

14 **(b)** The requirement set forth in subsection (a) may be waived
 15 with respect to any one (1) CSE system, subject to the written
 16 consent of the owner of each adjacent nonparticipating property.

17 **Sec. 17. (a)** Subject to subsection (b), and except as otherwise
 18 allowed by IC 36-7-4-1109, a project owner may not install or
 19 locate a CSE system in a unit unless the project owner submits to
 20 the permit authority the decommissioning and site restoration plan
 21 required by IC 36-7-5.4-9(a)(9), and posts a surety bond, or an
 22 equivalent means of security acceptable to the permit authority,
 23 including a parent company guarantee or an irrevocable letter of
 24 credit, in an amount equal to the estimated cost of
 25 decommissioning the CSE system, as calculated by a third party
 26 licensed or registered engineer or by another person with suitable
 27 experience in the decommissioning of CSE systems, as agreed upon
 28 by the project owner and the permit authority. The required bond
 29 or other security shall be posted in increments such that the total
 30 amount of the bond or security posted is as follows:

31 **(1)** An amount equal to twenty-five percent (25%) of the total
 32 estimated decommissioning costs not later than the start date
 33 of the CSE system's full commercial operation.

34 **(2)** An amount equal to fifty percent (50%) of the total
 35 estimated decommissioning costs not later than the fifth
 36 anniversary of the start date of the CSE system's full
 37 commercial operation.

38 **(3)** An amount equal to one hundred percent (100%) of the
 39 total estimated decommissioning costs not later than the tenth
 40 anniversary of the start date of the CSE system's full
 41 commercial operation. For purposes of this subdivision, the
 42 total estimated decommissioning costs shall be reevaluated by



1 a third party licensed or registered engineer (or by another
 2 person with suitable experience in the decommissioning of
 3 CSE systems, as agreed upon by the project owner and the
 4 permit authority):

5 (A) before the tenth anniversary of the start date of the
 6 CSE system's full commercial operation; and

7 (B) upon every succeeding five (5) year period after the
 8 tenth anniversary of the start date of the CSE system's full
 9 commercial operation;

10 and the total amount of the bond or security posted under this
 11 subdivision shall be adjusted as necessary after each
 12 reevaluation.

13 (b) For purposes of this section, the estimated cost of
 14 decommissioning a CSE system, as calculated by a licensed or
 15 registered professional engineer (or by another person with
 16 suitable experience in the decommissioning of CSE systems, as
 17 agreed upon by the project owner and the permit authority), shall
 18 be the net of any estimated salvage value attributable to the CSE
 19 system at the time of decommissioning, unless the unit and the
 20 project owner agree to include any such value in the estimated cost.

21 (c) A project owner shall provide to the permit authority
 22 written notice of the project owner's intent to decommission a CSE
 23 system not later than sixty (60) days before the discontinuation of
 24 commercial operation by the CSE system. Except as provided in
 25 subsection (e), after the discontinuation of commercial operation
 26 by the CSE system, and as part of the decommissioning process:

27 (1) all structures, foundations, roads, gravel areas, and cables
 28 associated with the project shall be removed to a depth of at
 29 least thirty-six (36) inches below grade; and

30 (2) the ground shall be restored to a condition reasonably
 31 similar to its condition before the start of construction
 32 activities in connection with the CSE system project.

33 (d) Except as provided in subsection (e), if the project owner
 34 fails to remove all CSE system project assets not later than one (1)
 35 year after the proposed date of final decommissioning, as set forth
 36 in the notice to the permit authority under subsection (c), the
 37 permit authority may engage qualified contractors to:

38 (1) enter the project site;

39 (2) remove the CSE system project assets;

40 (3) sell any assets removed; and

41 (4) remediate the site;

42 and may initiate proceedings to recover any costs incurred.



1 (e) Project assets may remain in place after decommissioning is
2 complete if:

- 3 (1) the location and condition of the assets are in conformance
4 with local regulations at the time of decommissioning; and
5 (2) the written consent of the landowner is obtained.

6 Sec. 18. (a) If a CSE system installed in a unit does not generate
7 electricity for eighteen (18) consecutive months:

- 8 (1) the CSE system is considered abandoned as of the date
9 that is five hundred forty (540) days after the date on which
10 the CSE system last generated electricity; and
11 (2) all CSE system project assets shall be removed in
12 accordance with section 17(c) of this chapter not later than
13 one (1) year after the date of abandonment specified in
14 subdivision (1).

15 (b) In the case of abandonment, as described in subsection (a),
16 if the project owner fails to remove the CSE system project assets
17 not later than one (1) year after the date of abandonment, as
18 required by subsection (a)(2), the permit authority may engage
19 qualified contractors to:

- 20 (1) enter the project site;
21 (2) remove the CSE system project assets;
22 (3) sell any assets removed; and
23 (4) remediate the site;

24 and may initiate proceedings to recover any costs incurred.

25 Sec. 19. (a) As used in this section, "force majeure event"
26 includes the following:

- 27 (1) Fire, flood, tornado, or other natural disasters or acts of
28 God.
29 (2) War, civil strife, a terrorist attack, or other similar acts of
30 violence.
31 (3) Other unforeseen events or events over which a project
32 owner has no control.

33 (b) If a force majeure event results in a CSE system not
34 generating electricity, the project owner shall:

- 35 (1) as soon as practicable after the occurrence of the force
36 majeure event, provide notice to the permit authority of the
37 event and of the resulting cessation of generating operations;
38 and
39 (2) demonstrate to the permit authority that the CSE system
40 will be substantially operational and generating electricity not
41 later than twelve (12) months after the occurrence of the force
42 majeure event.



1 **(c) If the CSE system does not become substantially operational**
 2 **and resume generating electricity within the time set forth in**
 3 **subdivision (2):**

4 **(1) the CSE system is considered abandoned as of the date**
 5 **that is three hundred sixty-five (365) days after the date on**
 6 **which the CSE system last generated electricity; and**

7 **(2) all CSE system project assets shall be removed in**
 8 **accordance with section 17(c) of this chapter not later than**
 9 **one (1) year after the date of abandonment specified in**
 10 **subdivision (1).**

11 **(d) In the case of presumed abandonment, as described in**
 12 **subsection (c), if the project owner fails to remove the CSE system**
 13 **project assets not later than one (1) year after the date of**
 14 **abandonment, as required by subsection (c)(2), the permit**
 15 **authority may engage qualified contractors to:**

16 **(1) enter the project site;**

17 **(2) remove the CSE system project assets;**

18 **(3) sell any assets removed; and**

19 **(4) remediate the site;**

20 **and may initiate proceedings to recover any costs incurred.**

21 SECTION 3. IC 36-1-3-8, AS AMENDED BY P.L.19-2019,
 22 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 UPON PASSAGE]: Sec. 8. (a) Subject to subsection (b), a unit does
 24 not have the following:

25 (1) The power to condition or limit its civil liability, except as
 26 expressly granted by statute.

27 (2) The power to prescribe the law governing civil actions
 28 between private persons.

29 (3) The power to impose duties on another political subdivision,
 30 except as expressly granted by statute.

31 (4) The power to impose a tax, except as expressly granted by
 32 statute.

33 (5) The power to impose a license fee greater than that reasonably
 34 related to the administrative cost of exercising a regulatory power.

35 (6) The power to impose a service charge or user fee greater than
 36 that reasonably related to reasonable and just rates and charges
 37 for services.

38 (7) The power to regulate conduct that is regulated by a state
 39 agency, except as expressly granted by statute.

40 (8) The power to prescribe a penalty for conduct constituting a
 41 crime or infraction under statute.

42 (9) The power to prescribe a penalty of imprisonment for an



- 1 ordinance violation.
- 2 (10) The power to prescribe a penalty of a fine as follows:
- 3 (A) More than ten thousand dollars (\$10,000) for the violation
- 4 of an ordinance or a regulation concerning air emissions
- 5 adopted by a county that has received approval to establish an
- 6 air permit program under IC 13-17-12-6.
- 7 (B) For a violation of any other ordinance:
- 8 (i) more than two thousand five hundred dollars (\$2,500) for
- 9 a first violation of the ordinance; and
- 10 (ii) except as provided in subsection (c), more than seven
- 11 thousand five hundred dollars (\$7,500) for a second or
- 12 subsequent violation of the ordinance.
- 13 (11) The power to invest money, except as expressly granted by
- 14 statute.
- 15 (12) The power to order or conduct an election, except as
- 16 expressly granted by statute.
- 17 (13) The power to adopt or enforce an ordinance described in
- 18 section 8.5 of this chapter.
- 19 (14) The power to take any action prohibited by section 8.6 of this
- 20 chapter.
- 21 **(15) The power to directly or indirectly restrict, or impose**
- 22 **conditions or limitations on, the construction, installation,**
- 23 **siting, modification, operation, or decommissioning of one (1)**
- 24 **or more wind power devices in the unit, except as allowed**
- 25 **under section 8.7 of this chapter.**
- 26 **(16) The power to directly or indirectly restrict, or impose**
- 27 **conditions or limitations on, the construction, installation,**
- 28 **siting, modification, operation, or decommissioning of one (1)**
- 29 **or more commercial solar energy systems in the unit, except**
- 30 **as allowed under section 8.8 of this chapter.**
- 31 ~~(15)~~ (17) The power to dissolve a political subdivision, except:
- 32 (A) as expressly granted by statute; or
- 33 (B) if IC 36-1-8-17.7 applies to the political subdivision, in
- 34 accordance with the procedure set forth in IC 36-1-8-17.7.
- 35 ~~(16)~~ (18) After June 30, 2019, the power to enact an ordinance
- 36 requiring a solid waste hauler or a person who operates a vehicle
- 37 in which recyclable material is transported for recycling to collect
- 38 fees authorized by IC 13-21 and remit the fees to:
- 39 (A) a unit; or
- 40 (B) the board of a solid waste management district established
- 41 under IC 13-21.
- 42 (b) A township does not have the following, except as expressly



1 granted by statute:

- 2 (1) The power to require a license or impose a license fee.
 3 (2) The power to impose a service charge or user fee.
 4 (3) The power to prescribe a penalty.

5 (c) Subsection (a)(10)(B)(ii) does not apply to the violation of an
 6 ordinance that regulates traffic or parking.

7 SECTION 4. IC 36-1-3-8.7 IS ADDED TO THE INDIANA CODE
 8 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 9 **UPON PASSAGE]: Sec. 8.7. (a) Subject to a unit's planning and**
 10 **zoning powers under IC 36-7, this section does not apply to a**
 11 **property owner who seeks to install a wind power device on the**
 12 **property owner's premises for the purpose of generating electricity**
 13 **to meet or offset all or part of the need for electricity on the**
 14 **premises, whether through distributed generation, participation in**
 15 **a net metering or feed-in tariff program offered by an electricity**
 16 **supplier (as defined in IC 8-1-40-4), or otherwise.**

17 (b) As used in this section, "permit authority", with respect to
 18 a unit, has the meaning set forth in IC 8-1-41-4.

19 (c) As used in this section, "unit" has the meaning set forth in
 20 IC 8-1-41-6.

21 (d) As used in this section, "wind power device" means a device,
 22 including a windmill or a wind turbine, that is designed to use the
 23 kinetic energy of moving air to provide mechanical energy or to
 24 produce electricity.

25 (e) As used in this section, "wind power regulation" refers to
 26 any ordinance or regulation, including any:

- 27 (1) zoning or land use ordinance or regulation; or
 28 (2) general or specific planning ordinance or regulation;

29 that is adopted by a unit and that concerns the construction,
 30 installation, siting, modification, operation, or decommissioning of
 31 wind power devices in the unit.

32 (f) Except as provided in IC 8-1-41-1(c), after June 30, 2021, a
 33 permit authority may not, directly or indirectly, restrict, or impose
 34 conditions or limitations on, the construction, installation, siting,
 35 modification, operation, or decommissioning of one (1) or more
 36 wind power devices in the unit unless:

- 37 (1) the unit has first adopted a wind power regulation;
 38 (2) any procedures set forth in the wind power regulation with
 39 respect to the permitting or approval process for the siting or
 40 installation of wind power devices in the unit comply with
 41 IC 36-7-5.3; and
 42 (3) any standards included in the wind power regulation are



- 1 not more restrictive, directly or indirectly, than the default
 2 standards set forth in IC 8-1-41.
- 3 (g) Subject to IC 36-7-4-1109, a wind power regulation that:
 4 (1) is in effect in a unit on or after July 1, 2021; and
 5 (2) sets forth or includes:
 6 (A) procedures with respect to the permitting or approval
 7 process for the siting or installation of wind power devices
 8 in the unit that do not comply with IC 36-7-5.3;
 9 (B) standards that are more restrictive, directly or
 10 indirectly, than the default standards set forth in
 11 IC 8-1-41; or
 12 (C) procedures and standards described in both clauses (A)
 13 and (B);
- 14 shall be amended by the legislative body of the unit so that the
 15 wind power regulation complies with the requirements set forth in
 16 subsection (f)(2) and (f)(3). Except as provided in IC 8-1-41-1(c),
 17 until such time as the legislative body of the unit amends the wind
 18 power regulation as required by this subsection, the procedures set
 19 forth in IC 36-7-5.3 or the default standards set forth in IC 8-1-41,
 20 as applicable, apply to the construction, installation, siting,
 21 modification, operation, or decommissioning of any wind power
 22 device in the unit after June 30, 2021. However, until such time as
 23 the legislative body of the unit amends the wind power regulation
 24 as required by this subsection, the unit may continue to enforce
 25 compliance with any part of the unit's wind power regulation that
 26 complies with, or is otherwise consistent with, the requirements set
 27 forth in subsection (f)(2) and (f)(3).
- 28 (h) After June 30, 2021, a unit may not amend:
 29 (1) a wind power regulation; or
 30 (2) any other regulation of the unit, regardless of the subject
 31 matter of the regulation;
- 32 to address any matter concerning the construction, installation,
 33 siting, modification, operation, or decommissioning of wind power
 34 devices in the unit unless the wind power regulation or other
 35 regulation, as amended, meets the requirements set forth in
 36 subsection (f), regardless of when the wind power regulation or
 37 other regulation was originally adopted.
- 38 SECTION 5. IC 36-1-3-8.8 IS ADDED TO THE INDIANA CODE
 39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 40 UPON PASSAGE]: Sec. 8.8. (a) Subject to a unit's planning and
 41 zoning powers under IC 36-7, this section does not apply to a
 42 property owner who seeks to install a solar energy device (as



1 defined in IC 32-23-4-3) on the property owner's premises for the
 2 purpose of generating electricity to meet or offset all or part of the
 3 need for electricity on the premises, whether through distributed
 4 generation, participation in a net metering or feed-in tariff
 5 program offered by an electricity supplier (as defined in
 6 IC 8-1-40-4), or otherwise.

7 (b) As used in this section, "commercial solar energy system",
 8 or "CSE system", means a system that:

9 (1) has a nameplate capacity of at least ten (10) megawatts;
 10 and

11 (2) captures and converts solar energy into electricity:

12 (A) for the purpose of selling the electricity at wholesale;
 13 and

14 (B) for use in locations other than where it is generated.

15 The term includes collection and feeder lines, generation tie lines,
 16 substations, ancillary buildings, solar monitoring stations, and
 17 accessory equipment or structures.

18 (c) As used in this section, "commercial solar regulation" refers
 19 to any ordinance or regulation, including any:

20 (1) zoning or land use ordinance or regulation; or

21 (2) general or specific planning ordinance or regulation;

22 that is adopted by a unit and that concerns the construction,
 23 installation, siting, modification, operation, or decommissioning of
 24 CSE systems in the unit.

25 (d) As used in this section, "permit authority", with respect to
 26 a unit, has the meaning set forth in IC 8-1-42-6.

27 (e) As used in this section, "unit" has the meaning set forth in
 28 IC 8-1-42-8.

29 (f) Except as provided in IC 8-1-42-1(c), after June 30, 2021, a
 30 permit authority may not, directly or indirectly, restrict, or impose
 31 conditions or limitations on, the construction, installation, siting,
 32 modification, operation, or decommissioning of one (1) or more
 33 CSE systems in the unit unless:

34 (1) the unit has first adopted a commercial solar regulation;

35 (2) any procedures set forth in the commercial solar
 36 regulation with respect to the permitting or approval process
 37 for the siting or installation of CSE systems in the unit comply
 38 with IC 36-7-5.4; and

39 (3) any standards included in the commercial solar regulation
 40 are not more restrictive, directly or indirectly, than the
 41 default standards set forth in IC 8-1-42.

42 (g) Subject to IC 36-7-4-1109, a commercial solar regulation



- 1 that:
- 2 (1) is in effect in a unit on or after July 1, 2021; and
- 3 (2) sets forth or includes:
- 4 (A) procedures with respect to the permitting or approval
- 5 process for the siting or installation of CSE systems in the
- 6 unit that do not comply with IC 36-7-5.4;
- 7 (B) standards that are more restrictive, directly or
- 8 indirectly, than the default standards set forth in
- 9 IC 8-1-42; or
- 10 (C) procedures and standards described in both clauses (A)
- 11 and (B);
- 12 shall be amended by the legislative body of the unit so that the
- 13 commercial solar regulation complies with the requirements set
- 14 forth in subsection (f)(2) and (f)(3). Except as provided in
- 15 IC 8-1-42-1(c), until such time as the legislative body of the unit
- 16 amends the commercial solar regulation as required by this
- 17 subsection, the procedures set forth in IC 36-7-5.4 or the default
- 18 standards set forth in IC 8-1-42, as applicable, apply to the
- 19 construction, installation, siting, modification, operation, or
- 20 decommissioning of any CSE system in the unit after June 30,
- 21 2021. However, until such time as the legislative body of the unit
- 22 amends the commercial solar regulation as required by this
- 23 subsection, the unit may continue to enforce compliance with any
- 24 part of the unit's commercial solar regulation that complies with,
- 25 or is otherwise consistent with, the requirements set forth in
- 26 subsection (f)(2) and (f)(3).
- 27 (h) After June 30, 2021, a unit may not amend:
- 28 (1) a commercial solar regulation; or
- 29 (2) any other regulation of the unit, regardless of the subject
- 30 matter of the regulation;
- 31 to address any matter concerning the construction, installation,
- 32 siting, modification, operation, or decommissioning of CSE systems
- 33 in the unit unless the commercial solar regulation or other
- 34 regulation, as amended, meets the requirements set forth in
- 35 subsection (f), regardless of when the commercial solar regulation
- 36 or other regulation was originally adopted.
- 37 SECTION 6. IC 36-7-5.3 IS ADDED TO THE INDIANA CODE
- 38 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 39 JULY 1, 2021]:
- 40 Chapter 5.3. Siting of Wind Power Devices in a Unit
- 41 Sec. 1. (a) Except as provided in subsections (c) and (d), this
- 42 chapter applies to the following:



- 1 **(1) The exercising by any unit of zoning, land use, planning, or**
- 2 **permitting authority as authorized by this article, or by any**
- 3 **other law, with respect to the construction, installation, siting,**
- 4 **modification, operation, or decommissioning of one (1) or**
- 5 **more wind power devices within the unit after June 30, 2021.**
- 6 **(2) The consideration by any unit, whether under a regulation**
- 7 **of the unit or otherwise, of a proposal for the construction,**
- 8 **installation, siting, modification, operation, or**
- 9 **decommissioning of one (1) or more wind power devices in the**
- 10 **unit after June 30, 2021.**
- 11 **(b) This chapter applies to a situation described in subsection (a)**
- 12 **in a unit that:**
- 13 **(1) has not adopted a wind power regulation; or**
- 14 **(2) has:**
- 15 **(A) adopted a wind power regulation that sets forth**
- 16 **procedures with respect to the permitting or approval**
- 17 **process for the siting or installation of wind power devices**
- 18 **in the unit that does not comply with this chapter; and**
- 19 **(B) failed to amend the wind power regulation as required**
- 20 **by IC 36-1-3-8.7(g).**
- 21 **(c) Subject to a unit's planning and zoning powers under this**
- 22 **article, this chapter does not apply to a property owner who seeks**
- 23 **to install a wind power device on the property owner's premises for**
- 24 **the purpose of generating electricity to meet or offset all or part of**
- 25 **the need for electricity on the premises, whether through**
- 26 **distributed generation, participation in a net metering or feed-in**
- 27 **tariff program offered by an electricity supplier (as defined in**
- 28 **IC 8-1-40-4), or otherwise.**
- 29 **(d) This chapter does not:**
- 30 **(1) apply to any proposal, request, or application that:**
- 31 **(A) concerns the construction, installation, siting,**
- 32 **modification, operation, or decommissioning of one (1) or**
- 33 **more wind power devices in a unit;**
- 34 **(B) is submitted by a project owner to a unit before July 1,**
- 35 **2021; and**
- 36 **(C) is pending as of July 1, 2021;**
- 37 **as set forth in IC 36-7-4-1109, regardless of whether the unit**
- 38 **is a unit described in subsection (b);**
- 39 **(2) affect the:**
- 40 **(A) construction;**
- 41 **(B) installation;**
- 42 **(C) siting;**



- 1 (D) modification;
 2 (E) operation; or
 3 (F) decommissioning;
 4 of one (1) or more wind power devices in a unit that before
 5 July 1, 2021, has approved such construction, installation,
 6 siting, modification, operation, or decommissioning,
 7 regardless of whether the unit is a unit described in subsection
 8 (b); or
 9 (3) affect any:
 10 (A) economic development agreement; or
 11 (B) other agreement;
 12 entered before July 1, 2021, with respect to the construction,
 13 installation, siting, modification, operation, or
 14 decommissioning of one (1) or more wind power devices in
 15 one (1) or more units.
- 16 Sec. 2. As used in this chapter, "commission" refers to the
 17 Indiana utility regulatory commission created by IC 8-1-1-2.
- 18 Sec. 3. (a) As used in this chapter, "permit authority" means:
 19 (1) a unit; or
 20 (2) a board, a commission, or any other governing body of a
 21 unit;
 22 that makes legislative or administrative decisions concerning the
 23 construction, installation, siting, modification, operation, or
 24 decommissioning of wind power devices in the unit.
- 25 (b) The term does not include:
 26 (1) the state or any of its agencies, departments, boards,
 27 commissions, authorities, or instrumentalities; or
 28 (2) a court or other judicial body that reviews decisions or
 29 rulings made by a permit authority.
- 30 Sec. 4. (a) As used in this chapter, "project owner" means a
 31 person that:
 32 (1) will own one (1) or more wind power devices proposed to
 33 be located in a unit; or
 34 (2) owns one (1) or more wind power devices located in a unit.
- 35 (b) The term includes an agent or a representative of a person
 36 described in subsection (a).
- 37 Sec. 5. (a) As used in this chapter, "unit" refers to:
 38 (1) a county, if a project owner, as part of a single wind power
 39 project or development, seeks to locate one (1) or more wind
 40 power devices:
 41 (A) entirely within unincorporated areas of the county;
 42 (B) within both unincorporated areas of the county and



1 one (1) or more municipalities within the county; or
2 (C) entirely within two (2) or more municipalities within
3 the county; or
4 (2) a municipality, if:
5 (A) a project owner, as part of a single wind power project
6 or development, seeks to locate one (1) or more wind
7 power devices entirely within the boundaries of the
8 municipality; and
9 (B) subdivision (1)(B) or (1)(C) does not apply.
10 (b) The term refers to:
11 (1) each county described in subsection (a)(1) in which a
12 project owner seeks to locate one (1) or more wind power
13 devices, if the project owner seeks to locate wind power
14 devices in more than one (1) county as part of a single wind
15 power project or development; and
16 (2) each municipality described in subsection (a)(2) in which
17 a project owner seeks to locate one (1) or more wind power
18 devices, if the project owner seeks to locate wind power
19 devices in two (2) more municipalities, each of which is
20 located in a different county.
21 Sec. 6. As used in this chapter, "wind power device" means a
22 device, including a windmill or a wind turbine, that is designed to
23 use the kinetic energy of moving air to provide mechanical energy
24 or to produce electricity.
25 Sec. 7. As used in this chapter, "wind power regulation" refers
26 to any ordinance or regulation, including any:
27 (1) zoning or land use ordinance or regulation; or
28 (2) general or specific planning ordinance or regulation;
29 that is adopted by a unit and that concerns the construction,
30 installation, siting, modification, operation, or decommissioning of
31 wind power devices in the unit.
32 Sec. 8. (a) A wind power device may not be installed or located
33 in a unit without the approval of the permit authority for the unit.
34 (b) Except as provided in section 1(c) and 1(d) of this chapter,
35 the procedures set forth in this chapter apply with respect to any
36 proposal by a project owner to install or locate one (1) or more
37 wind power devices in a unit described in section 1(b) of this
38 chapter after June 30, 2021. The permit authority for a unit
39 described in section 1(b)(1) of this chapter may not, directly or
40 indirectly, restrict, or impose conditions or limitations on, the
41 construction, installation, siting, modification, operation, or
42 decommissioning of one (1) or more wind power devices in the unit



1 unless the unit first adopts a wind power regulation, as required by
 2 IC 36-1-3-8.7(f)(1). However, in no case may any unit use
 3 procedures, whether by regulation or otherwise, that:

- 4 (1) govern the permitting or approval process for the siting or
 5 installation of wind power devices in the unit; and
 6 (2) do not comply with this chapter;

7 as provided in IC 36-1-3-8.7(f)(2).

8 (c) Except as provided in:

- 9 (1) subsection (b);
 10 (2) IC 36-1-3-8.7; and
 11 (3) IC 8-1-41;

12 this chapter does not otherwise affect a unit's planning and zoning
 13 powers under this article with respect to the installation or siting
 14 of one (1) or more wind power devices in the unit.

15 (d) A permit authority for a unit described in section 1(b) of this
 16 chapter is responsible for enforcing compliance with:

- 17 (1) this chapter;
 18 (2) the default standards set forth in IC 8-1-41, if applicable
 19 under IC 8-1-41-1(a); and
 20 (3) in the case of a unit described in section 1(b)(2) of this
 21 chapter, any part of the unit's wind power regulation, to the
 22 extent such part:
 23 (A) is not inconsistent with this chapter; and
 24 (B) does not include standards that are more restrictive,
 25 directly or indirectly, than the default standards set forth
 26 in IC 8-1-41.

27 **Sec. 9. (a)** A project owner that seeks to install or locate one (1)
 28 or more wind power devices in a unit after June 30, 2021, shall file
 29 with the permit authority for the unit an application in the form
 30 and manner prescribed by the permit authority. An application
 31 filed under this section must include the following, provided with
 32 as much detail or specificity as the permit authority may
 33 reasonably require, and so far as ascertainable at the time of the
 34 application:

- 35 (1) A physical and technical description of all wind power
 36 devices proposed to be installed or located in the unit.
 37 (2) A physical and technical description of all sites in the unit
 38 on which one (1) or more wind power devices are sought to be
 39 installed or located, including maps showing the location of
 40 the sites.
 41 (3) The project owner's anticipated timeline and process for
 42 constructing and installing all wind power devices proposed



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- in the application.
- (4) Information regarding the sound:**
 - (A) expressed as an hourly average sound level or by any other measure reasonably required by the permit authority; and**
 - (B) as modeled at the outer wall of an affected dwelling; anticipated to be attributable to the operation of each wind power device included in the application.**
- (5) Information regarding the amount of anticipated shadow flicker, expressed as hours per year under planned operating conditions or by any other measure reasonably required by the permit authority, expected to be attributable to the operation of each wind power device included in the application.**
- (6) Information regarding the status of all permits required by the Federal Aviation Administration with respect to each wind power device included in the application.**
- (7) Information regarding the planned use and modification of any highways, streets, and roads in the unit during the construction and installation of all wind power devices included in the application, including a process for:**
 - (A) assessing road damage caused by activities involved in such construction and installation; and**
 - (B) conducting road repairs at the project owner's expense.**
- (8) A copy of all emergency response plans applicable to the construction, installation, siting, modification, operation, and decommissioning of all wind power devices included in the application, including a process for sharing the plans with, and providing safety training to, all potential first responders.**
- (9) A decommissioning and site restoration plan for each wind power device included in the application, including both a timeline for decommissioning and a timeline for posting any required:**
 - (A) surety bond;**
 - (B) parent company guarantee;**
 - (C) irrevocable letter of credit; or**
 - (D) other equivalent means of security or financial assurance acceptable to the permit authority;****in an amount reflecting the estimated cost of decommissioning the wind power device.**
- (10) A copy of all representative notices to:**
 - (A) the permit authority;**



- 1 **(B) residents of the unit;**
 2 **(C) political subdivisions in which, or adjacent to where,**
 3 **the project will be located; and**
 4 **(D) owners of property on which, or adjacent to where, the**
 5 **project will be located;**
 6 to be issued by the project owner with respect to the
 7 construction, installation, siting, modification, operation, and
 8 decommissioning of all wind power devices included in the
 9 application, including any preconstruction and
 10 postconstruction activities.
- 11 **(11) A description of a dispute resolution process that:**
 12 **(A) will be used by the project owner in resolving**
 13 **complaints under section 12 of this chapter; and**
 14 **(B) complies with the requirements set forth in section**
 15 **12(b) of this chapter.**
- 16 **(12) Any other information reasonably necessary to**
 17 **understand the construction, installation, siting, modification,**
 18 **operation, and decommissioning of all wind power devices**
 19 **included in the application.**
- 20 **(13) A statement, signed by an officer or another person**
 21 **authorized to bind the project owner, that affirms the**
 22 **accuracy of the information provided in the application.**
- 23 **(b) A project owner that submits an application under this**
 24 **section shall notify the permit authority in writing when all**
 25 **required documents and information described in subsection (a)**
 26 **have been submitted. An application under this section is**
 27 **considered filed as of the date of the project owner's notice under**
 28 **this subsection.**
- 29 **(c) Not later than thirty (30) days after the date of a project**
 30 **owner's notice under subsection (b), the permit authority shall**
 31 **determine whether the project owner's application is complete and**
 32 **shall notify the project owner in writing of the determination.**
 33 **Subject to subsection (f), if the permit authority determines that**
 34 **the application is complete, the permit authority shall proceed to**
 35 **make a determination as to whether to grant or deny the**
 36 **application under section 10 of this chapter. Subject to subsections**
 37 **(d) and (e), if the permit authority determines that the application**
 38 **is incomplete, the permit authority shall state the reasons for the**
 39 **determination in the permit authority's notice to the project owner**
 40 **under this subsection. A permit authority shall not make a**
 41 **determination of incompleteness based on grounds that are**
 42 **arbitrary, capricious, an abuse of discretion, or not in accordance**



1 with law. If the permit authority does not make a determination as
 2 to the completeness of the application within the time prescribed
 3 by this subsection, the application is considered complete.

4 (d) A project owner may file supplemental information to an
 5 application that a permit authority has determined to be
 6 incomplete under subsection (c). A project owner that intends to
 7 file supplemental information under this subsection shall notify the
 8 permit authority of the project owner's intention not later than
 9 fourteen (14) days after the date of the permit authority's notice of
 10 incompleteness under subsection (c). The project owner's notice of
 11 intention to file supplemental information under this subsection
 12 stays the start of the period set forth in section 10 of this chapter
 13 in which the permit authority must approve or deny the
 14 application until such time as the application is finally determined
 15 to be or is considered complete under this section. The project
 16 owner shall provide any reasonably requested additional
 17 information identified in the permit authority's notice under
 18 subsection (c), to the extent ascertainable. A permit authority may
 19 not impose a limit on the number of times a project owner may
 20 supplement an application under this subsection.

21 (e) A project owner that submits a supplemented application
 22 under subsection (d) shall notify the permit authority in writing
 23 when all information and documents provided in connection with
 24 the supplemented application have been submitted. A thirty (30)
 25 day period for a completeness determination by the permit
 26 authority with respect to the supplemented application begins as of
 27 the date of the project owner's notice under this subsection, in
 28 accordance with the procedures set forth in subsection (c) for an
 29 initial application. If the permit authority does not make a
 30 determination as to the completeness of the supplemented
 31 application within the time prescribed by this subsection, the
 32 supplemented application is considered complete.

33 (f) After:

34 (1) an initial application is determined to be or is considered
 35 complete under subsection (c); or

36 (2) a supplemented application is determined to be or is
 37 considered complete under subsection (e);

38 a permit authority may nevertheless request additional
 39 information reasonably necessary to understand the construction,
 40 installation, siting, modification, operation, and decommissioning
 41 of any of the wind power devices included in a project owner's
 42 initial or supplemented application. A project owner shall provide



1 additional information in response to all reasonable inquiries made
 2 by the permit authority, and shall respond in a timely, complete,
 3 and accurate manner.

4 Sec. 10. (a) Subject to subsection (b) and section 11 of this
 5 chapter, a permit authority shall issue a written decision to grant
 6 or deny an application or a supplemented application under this
 7 chapter not later than ninety (90) days after the application or
 8 supplemented application is finally determined to be or is
 9 considered complete. The permit authority's written decision must
 10 include all findings of fact upon which the decision is based. The
 11 permit authority shall provide a copy of the permit authority's
 12 decision to:

13 (1) the project owner; and

14 (2) the commission.

15 (b) A permit authority may not:

16 (1) unreasonably deny an application or a supplemented
 17 application under this chapter;

18 (2) condition approval of an application or a supplemented
 19 application upon a project owner's agreement to fulfill
 20 unreasonable requirements, including:

21 (A) property value guarantees;

22 (B) onerous road upgrades; or

23 (C) other requirements that are intended to prevent or
 24 impede (or would have the effect of preventing or
 25 impeding) the construction, installation, siting,
 26 modification, operation, or decommissioning of wind
 27 power devices in the unit; or

28 (3) after approving an application or a supplemented
 29 application, impose unreasonable requirements upon a
 30 project owner, including any of the requirements set forth in
 31 subdivision (2), at any point during the project owner's
 32 construction, installation, siting, modification, operation, or
 33 decommissioning of wind power devices in the unit.

34 Sec. 11. (a) Not later than thirty (30) days after the date of a
 35 permit authority's decision under section 10 of this chapter to
 36 approve or deny an application or a supplemented application:

37 (1) the project owner;

38 (2) an interested party described in section 9(a)(10)(C)
 39 through 9(a)(10)(D) of this chapter; or

40 (3) at least twenty-five (25) residents of the unit represented
 41 by an attorney licensed to practice law in Indiana;

42 may file with the commission a petition requesting a review of the



1 permit authority's decision.

2 (b) Upon receiving a petition under subsection (a), the
3 commission shall, in writing:

4 (1) provide notice of the filing of a petition to:

5 (A) the permit authority; and

6 (B) the project owner, if the project owner is not the
7 petitioner; and

8 (2) request from:

9 (A) the permit authority;

10 (B) the petitioner;

11 (C) the project owner; and

12 (D) an interested party described in section 9(a)(10)(C)
13 through 9(a)(10)(D) of this chapter that is a party to the
14 petition;

15 any information required by the commission to make a
16 determination on the petition.

17 Any information requested by the commission under subdivision
18 (2) shall be submitted to the commission not later than thirty (30)
19 days after the date of the commission's written request.

20 (c) Not later than one hundred fifty (150) days after receiving all
21 information requested under subsection (b)(2), the commission
22 shall:

23 (1) after notice and an opportunity for hearing; and

24 (2) consistent with the policy set forth in IC 8-1-2-0.5;

25 issue an order with respect to the permit authority's decision under
26 section 10 of this chapter.

27 (d) The commission's order under subsection (c) must include
28 the commission's findings as to:

29 (1) the reasonableness of the permit authority's decision
30 under section 10 of this chapter; and

31 (2) the parties' compliance with:

32 (A) this chapter;

33 (B) the default standards set forth in IC 8-1-41, if
34 applicable under IC 8-1-41-1(a); and

35 (C) in the case of a unit described in section 1(b)(2) of this
36 chapter, any part of the unit's wind power regulation, to
37 the extent such part:

38 (i) is not inconsistent with this chapter; and

39 (ii) does not include standards that are more restrictive,
40 directly or indirectly, than the default standards set
41 forth in IC 8-1-41.

42 (e) In the commission's order under subsection (c), the



1 commission may affirm, vacate, or modify the permit authority's
2 decision as the public convenience and necessity may require.

3 (f) In the commission's order under subsection (c), the
4 commission shall not consider:

5 (1) the reasonableness of the default standards set forth in
6 IC 8-1-41; or

7 (2) relief regarding:

8 (A) asserted effects on health;

9 (B) asserted effects on aesthetics;

10 (C) asserted effects on property values; or

11 (D) any other requested relief distinct from the factors set
12 forth in subsection (d).

13 (g) The order of the commission under subsection (c) is
14 considered a final order, subject to appeal under IC 8-1-3.

15 Sec. 12. (a) At any time after a permit authority issues a decision
16 under section 10 of this chapter with respect to the construction,
17 installation, siting, modification, operation, or decommissioning of
18 one (1) or more wind power devices in the unit, an interested party
19 described in section 9(a)(10)(C) through 9(a)(10)(D) of this chapter
20 may file a complaint with the project owner alleging that the
21 project owner has failed to comply with:

22 (1) this chapter;

23 (2) the default standards set forth in IC 8-1-41, if applicable
24 under IC 8-1-41-1(a); or

25 (3) in a unit described in section 1(b)(2) of this chapter, any
26 part of the unit's wind power regulation, to the extent such
27 part:

28 (A) is not inconsistent with this chapter; and

29 (B) does not include standards that are more restrictive,
30 directly or indirectly, than the default standards set forth
31 in IC 8-1-41.

32 (b) An interested party that files a complaint under this section
33 shall do so in accordance with the project owner's dispute
34 resolution process, as set forth in the project owner's application
35 under section 9(a)(11) of this chapter. The following apply with
36 respect to a complaint filed under this section:

37 (1) The project owner shall:

38 (A) make a good faith effort to resolve the complaint; and

39 (B) conduct any investigation required to resolve the
40 complaint at the project owner's expense.

41 (2) Not later than thirty (30) days after receiving the
42 complaint, the project owner shall provide an initial response



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to the complainant.

(3) The project owner shall:

(A) make a good faith effort to resolve the complaint not later than forty-five (45) days after receiving the complaint; and

(B) notify the permit authority if the complaint is not resolved within the forty-five (45) day period set forth in clause (A).

(c) If a complaint under this section:

(1) is filed by a party described in section 11(a)(2) or 11(a)(3) of this chapter; and

(2) is not resolved within the forty-five (45) day period set forth in subsection (b)(3)(A);

the complainant may file with the commission a petition requesting a review of the complaint. A petition for review under this subsection must be filed not later than sixty (60) days after the date of the filing of the complaint with the project owner under this section.

(d) Upon receiving a petition under subsection (c), the commission shall, in writing:

(1) notify the project owner of the filing of petition; and

(2) request from:

(A) the project owner;

(B) the petitioner; and

(C) the permit authority;

any information required by the commission to make a determination on the petition.

Any information requested by the commission under subdivision (2) shall be submitted to the commission not later than thirty (30) days after the date of the commission's written request.

(e) Not later than ninety (90) days after receiving all information requested under subsection (d)(2), the commission shall issue an order with respect to the complaint. The commission may issue an order under this subsection without a hearing. The commission's resolution of the complaint is limited to the scope of the complaint regarding the project owner's compliance with:

(1) this chapter;

(2) the default standards set forth in IC 8-1-41, if applicable under IC 8-1-41-1(a); or

(3) in the case of a unit described in section 1(b)(2) of this chapter, any part of the unit's wind power regulation, to the extent such part:



- 1 (A) is not inconsistent with this chapter; and
 2 (B) does not include standards that are more restrictive,
 3 directly or indirectly, than the default standards set forth
 4 in IC 8-1-41;
 5 as applicable.
- 6 (f) In the commission's order under subsection (e), the
 7 commission may order such relief as the public convenience and
 8 necessity may require.
- 9 (g) In the commission's order under subsection (e), the
 10 commission shall not consider:
- 11 (1) the reasonableness of the default standards set forth in
 12 IC 8-1-41; or
- 13 (2) relief regarding:
- 14 (A) asserted effects on health;
 15 (B) asserted effects on aesthetics;
 16 (C) asserted effects on property values; or
 17 (D) any other requested relief distinct from the factors set
 18 forth in subsection (e).
- 19 (h) The commission's order under subsection (e) is considered
 20 a final order, subject to appeal under IC 8-1-3.
- 21 SECTION 7. IC 36-7-5.4 IS ADDED TO THE INDIANA CODE
 22 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2021]:
- 24 **Chapter 5.4. Siting of Commercial Solar Energy Systems in a**
 25 **Unit**
- 26 **Sec. 1. (a) Except as provided in subsections (c) and (d), this**
 27 **chapter applies to the following:**
- 28 (1) The exercising by any unit of zoning, land use, planning, or
 29 permitting authority as authorized by this article, or by any
 30 other law, with respect to the construction, installation, siting,
 31 modification, operation, or decommissioning of one (1) or
 32 more CSE systems within the unit after June 30, 2021.
- 33 (2) The consideration by any unit, whether under a regulation
 34 of the unit or otherwise, of a proposal for the construction,
 35 installation, siting, modification, operation, or
 36 decommissioning of one (1) or more CSE systems in the unit
 37 after June 30, 2021.
- 38 (b) This chapter applies to a situation described in subsection (a)
 39 in a unit that:
- 40 (1) has not adopted a commercial solar regulation; or
 41 (2) has:
- 42 (A) adopted a commercial solar regulation that sets forth



1 procedures with respect to the permitting or approval
 2 process for the siting or installation of CSE systems in the
 3 unit that does not comply with this chapter; and
 4 **(B) failed to amend the commercial solar regulation as**
 5 **required by IC 36-1-3-8.8(g).**
 6 **(c) Subject to a unit's planning and zoning powers under this**
 7 **article, this chapter does not apply to a property owner who seeks**
 8 **to install a solar energy device (as defined in IC 32-23-4-3) on the**
 9 **property owner's premises for the purpose of generating electricity**
 10 **to meet or offset all or part of the need for electricity on the**
 11 **premises, whether through distributed generation, participation in**
 12 **a net metering or feed-in tariff program offered by an electricity**
 13 **supplier (as defined in IC 8-1-40-4), or otherwise.**
 14 **(d) This chapter does not:**
 15 **(1) apply to any proposal, request, or application that:**
 16 **(A) concerns the construction, installation, siting,**
 17 **modification, operation, or decommissioning of one (1) or**
 18 **more CSE systems in a unit;**
 19 **(B) is submitted by a project owner to a unit before July 1,**
 20 **2021; and**
 21 **(C) is pending as of July 1, 2021;**
 22 **as set forth in IC 36-7-4-1109, regardless of whether the unit**
 23 **is a unit described in subsection (b);**
 24 **(2) affect the:**
 25 **(A) construction;**
 26 **(B) installation;**
 27 **(C) siting;**
 28 **(D) modification;**
 29 **(E) operation; or**
 30 **(F) decommissioning;**
 31 **of one (1) or more CSE systems in a unit that before July 1,**
 32 **2021, has approved such construction, installation, siting,**
 33 **modification, operation, or decommissioning, regardless of**
 34 **whether the unit is a unit described in subsection (b); or**
 35 **(3) affect any:**
 36 **(A) economic development agreement; or**
 37 **(B) other agreement;**
 38 **entered before July 1, 2021, with respect to the construction,**
 39 **installation, siting, modification, operation, or**
 40 **decommissioning of one (1) or more CSE systems in one (1) or**
 41 **more units.**
 42 **Sec. 2. (a) As used in this chapter, "commercial solar energy**



1 system", or "CSE system", means a system that:

2 (1) has a nameplate capacity of at least ten (10) megawatts;

3 and

4 (2) captures and converts solar energy into electricity:

5 (A) for the purpose of selling the electricity at wholesale;

6 and

7 (B) for use in locations other than where it is generated.

8 (b) The term includes collection and feeder lines, generation tie
9 lines, substations, ancillary buildings, solar monitoring stations,
10 and accessory equipment or structures.

11 Sec. 3. As used in this chapter, "commercial solar regulation"
12 refers to any ordinance or regulation, including any:

13 (1) zoning or land use ordinance or regulation; or

14 (2) general or specific planning ordinance or regulation;

15 that is adopted by a unit and that concerns the construction,
16 installation, siting, modification, operation, or decommissioning of
17 CSE systems in the unit.

18 Sec. 4. As used in this chapter, "commission" refers to the
19 Indiana utility regulatory commission created by IC 8-1-1-2.

20 Sec. 5. (a) As used in this chapter, "permit authority" means:

21 (1) a unit; or

22 (2) a board, a commission, or any other governing body of a
23 unit;

24 that makes legislative or administrative decisions concerning the
25 construction, installation, siting, modification, operation, or
26 decommissioning of CSE systems in the unit.

27 (b) The term does not include:

28 (1) the state or any of its agencies, departments, boards,
29 commissions, authorities, or instrumentalities; or

30 (2) a court or other judicial body that reviews decisions or
31 rulings made by a permit authority.

32 Sec. 6. (a) As used in this chapter, "project owner" means a
33 person that:

34 (1) will own one (1) or more CSE systems proposed to be
35 located in a unit; or

36 (2) owns one (1) or more CSE systems located in a unit.

37 (b) The term includes an agent or a representative of a person
38 described in subsection (a).

39 Sec. 7. (a) As used in this chapter, "unit" refers to:

40 (1) a county, if a project owner, as part of a single CSE system
41 project or development, seeks to locate one (1) or more CSE
42 systems:



- 1 (A) entirely within unincorporated areas of the county;
 2 (B) within both unincorporated areas of the county and
 3 one (1) or more municipalities within the county; or
 4 (C) entirely within two (2) or more municipalities within
 5 the county; or
 6 (2) a municipality, if:
 7 (A) a project owner, as part of a single CSE system project
 8 or development, seeks to locate one (1) or more CSE
 9 systems entirely within the boundaries of the municipality;
 10 and
 11 (B) subdivision (1)(B) or (1)(C) does not apply.
 12 (b) The term refers to:
 13 (1) each county described in subsection (a)(1) in which a
 14 project owner seeks to locate one (1) or more CSE systems, if
 15 the project owner seeks to locate CSE systems in more than
 16 one (1) county as part of a single CSE system project or
 17 development; and
 18 (2) each municipality described in subsection (a)(2) in which
 19 a project owner seeks to locate one (1) or more CSE systems,
 20 if the project owner seeks to locate CSE systems in two (2)
 21 more municipalities, each of which is located in a different
 22 county.
 23 **Sec. 8. (a) A CSE system may not be installed or located in a unit**
 24 **without the approval of the permit authority for the unit.**
 25 (b) Except as provided in section 1(c) and 1(d) of this chapter,
 26 the procedures set forth in this chapter apply with respect to any
 27 proposal by a project owner to install or locate one (1) or more
 28 CSE systems in a unit described in section 1(b) of this chapter after
 29 June 30, 2021. The permit authority for a unit described in section
 30 1(b)(1) of this chapter may not, directly or indirectly, restrict, or
 31 impose conditions or limitations on, the construction, installation,
 32 siting, modification, operation, or decommissioning of one (1) or
 33 more CSE systems in the unit unless the unit first adopts a
 34 commercial solar regulation, as required by IC 36-1-3-8.8(f)(1).
 35 However, in no case may any unit use procedures, whether by
 36 regulation or otherwise, that:
 37 (1) govern the permitting or approval process for the siting or
 38 installation CSE systems in the unit; and
 39 (2) do not comply with this chapter;
 40 as provided in IC 36-1-3-8.8(f)(2).
 41 (c) Except as provided in:
 42 (1) subsection (b);



- 1 (2) IC 36-1-3-8.8; and
 2 (3) IC 8-1-42;
 3 **this chapter does not otherwise affect a unit's planning and zoning**
 4 **powers under this article with respect to the installation or siting**
 5 **of one (1) or more CSE systems in the unit.**
 6 **(d) A permit authority for a unit described in section 1(b) of this**
 7 **chapter is responsible for enforcing compliance with:**
 8 **(1) this chapter;**
 9 **(2) the default standards set forth in IC 8-1-42, if applicable**
 10 **under IC 8-1-42-1(a); and**
 11 **(3) in the case of a unit described in section 1(b)(2) of this**
 12 **chapter, any part of the unit's commercial solar regulation, to**
 13 **the extent such part:**
 14 **(A) is not inconsistent with this chapter; and**
 15 **(B) does not include standards that are more restrictive,**
 16 **directly or indirectly, than the default standards set forth**
 17 **in IC 8-1-42.**
 18 **Sec. 9. (a) A project owner that seeks to install or locate one (1)**
 19 **or more CSE systems in a unit after June 30, 2021, shall file with**
 20 **the permit authority for the unit an application in the form and**
 21 **manner prescribed by the permit authority. An application filed**
 22 **under this section must include the following, provided with as**
 23 **much detail or specificity as the permit authority may reasonably**
 24 **require, and so far as ascertainable at the time of the application:**
 25 **(1) A physical and technical description of all CSE systems**
 26 **proposed to be installed or located in the unit.**
 27 **(2) A physical and technical description of all sites in the unit**
 28 **on which one (1) or more CSE systems are sought to be**
 29 **installed or located, including maps showing the location of**
 30 **the sites.**
 31 **(3) The project owner's anticipated timeline and process for**
 32 **constructing and installing all CSE systems proposed in the**
 33 **application.**
 34 **(4) Information regarding the sound:**
 35 **(A) expressed as an hourly average sound level or by any**
 36 **other measure reasonably required by the permit**
 37 **authority; and**
 38 **(B) as modeled at the outer wall of a dwelling located on an**
 39 **adjacent nonparticipating property (as defined in**
 40 **IC 8-1-42-5);**
 41 **anticipated to be attributable to the operation of each CSE**
 42 **system included in the application.**



- 1 (5) To the extent applicable, information regarding the
 2 planned use and modification of any highways, streets, and
 3 roads in the unit during the construction and installation of all
 4 CSE systems included in the application, including a process
 5 for:
 6 (A) assessing road damage caused by activities involved in
 7 such construction and installation; and
 8 (B) conducting road repairs at the project owner's expense.
 9 (6) A copy of all emergency response plans applicable to the
 10 construction, installation, siting, modification, operation, and
 11 decommissioning of all CSE systems included in the
 12 application, including a process for sharing the plans with,
 13 and providing safety training to, all potential first responders.
 14 (7) A decommissioning and site restoration plan for each CSE
 15 system included in the application, including both a timeline
 16 for decommissioning and a timeline for posting any required:
 17 (A) surety bond;
 18 (B) parent company guarantee;
 19 (C) irrevocable letter of credit; or
 20 (D) other equivalent means of security or financial
 21 assurance acceptable to the permit authority;
 22 in an amount reflecting the estimated cost of decommissioning
 23 the CSE system.
 24 (8) A copy of all representative notices to:
 25 (A) the permit authority;
 26 (B) residents of the unit;
 27 (C) political subdivisions in which, or adjacent to where,
 28 the project will be located; and
 29 (D) owners of property on which, or adjacent to where, the
 30 project will be located;
 31 to be issued by the project owner with respect to the
 32 construction, installation, siting, modification, operation, and
 33 decommissioning of all CSE systems included in the
 34 application, including any preconstruction and
 35 postconstruction activities.
 36 (9) A description of a dispute resolution process that:
 37 (A) will be used by the project owner in resolving
 38 complaints under section 12 of this chapter; and
 39 (B) complies with the requirements set forth in section
 40 12(b) of this chapter.
 41 (10) A copy of any vegetation plan required by the permit
 42 authority or the unit under IC 8-1-42-11.



1 (11) Any other information reasonably necessary to
2 understand the construction, installation, siting, modification,
3 operation, and decommissioning of all CSE systems included
4 in the application.

5 (12) A statement, signed by an officer or another person
6 authorized to bind the project owner, that affirms the
7 accuracy of the information provided in the application.

8 (b) A project owner that submits an application under this
9 section shall notify the permit authority in writing when all
10 required documents and information described in subsection (a)
11 have been submitted. An application under this section is
12 considered filed as of the date of the project owner's notice under
13 this subsection.

14 (c) Not later than thirty (30) days after the date of a project
15 owner's notice under subsection (b), the permit authority shall
16 determine whether the project owner's application is complete and
17 shall notify the project owner in writing of the determination.
18 Subject to subsection (f), if the permit authority determines that
19 the application is complete, the permit authority shall proceed to
20 make a determination as to whether to grant or deny the
21 application under section 10 of this chapter. Subject to subsections
22 (d) and (e), if the permit authority determines that the application
23 is incomplete, the permit authority shall state the reasons for the
24 determination in the permit authority's notice to the project owner
25 under this subsection. A permit authority shall not make a
26 determination of incompleteness based on grounds that are
27 arbitrary, capricious, an abuse of discretion, or not in accordance
28 with law. If the permit authority does not make a determination as
29 to the completeness of the application within the time prescribed
30 by this subsection, the application is considered complete.

31 (d) A project owner may file supplemental information to an
32 application that a permit authority has determined to be
33 incomplete under subsection (c). A project owner that intends to
34 file supplemental information under this subsection shall notify the
35 permit authority of the project owner's intention not later than
36 fourteen (14) days after the date of the permit authority's notice of
37 incompleteness under subsection (c). The project owner's notice of
38 intention to file supplemental information under this subsection
39 stays the start of the period set forth in section 10 of this chapter
40 in which the permit authority must approve or deny the
41 application until such time as the application is finally determined
42 to be or is considered complete under this section. The project



1 owner shall provide any reasonably requested additional
 2 information identified in the permit authority's notice under
 3 subsection (c), to the extent ascertainable. A permit authority may
 4 not impose a limit on the number of times a project owner may
 5 supplement an application under this subsection.

6 (e) A project owner that submits a supplemented application
 7 under subsection (d) shall notify the permit authority in writing
 8 when all information and documents provided in connection with
 9 the supplemented application have been submitted. A thirty (30)
 10 day period for a completeness determination by the permit
 11 authority with respect to the supplemented application begins as of
 12 the date of the project owner's notice under this subsection, in
 13 accordance with the procedures set forth in subsection (c) for an
 14 initial application. If the permit authority does not make a
 15 determination as to the completeness of the supplemented
 16 application within the time prescribed by this subsection, the
 17 supplemented application is considered complete.

18 (f) After:

19 (1) an initial application is determined to be or is considered
 20 complete under subsection (c); or

21 (2) a supplemented application is determined to be or is
 22 considered complete under subsection (e);

23 a permit authority may nevertheless request additional
 24 information reasonably necessary to understand the construction,
 25 installation, siting, modification, operation, and decommissioning
 26 of any of the CSE systems included in a project owner's initial or
 27 supplemented application. A project owner shall provide additional
 28 information in response to all reasonable inquiries made by the
 29 permit authority, and shall respond in a timely, complete, and
 30 accurate manner.

31 Sec. 10. (a) Subject to subsection (b) and section 11 of this
 32 chapter, a permit authority shall issue a written decision to grant
 33 or deny an application or a supplemented application under this
 34 chapter not later than ninety (90) days after the application or
 35 supplemented application is finally determined to be or is
 36 considered complete. The permit authority's written decision must
 37 include all findings of fact upon which the decision is based. The
 38 permit authority shall provide a copy of the permit authority's
 39 decision to:

40 (1) the project owner; and

41 (2) the commission.

42 (b) A permit authority may not:



- 1 (1) unreasonably deny an application or a supplemented
 2 application under this chapter;
 3 (2) condition approval of an application or a supplemented
 4 application upon a project owner's agreement to fulfill
 5 unreasonable requirements, including:
 6 (A) property value guarantees;
 7 (B) onerous road upgrades; or
 8 (C) other requirements that are intended to prevent or
 9 impede (or would have the effect of preventing or
 10 impeding) the construction, installation, siting,
 11 modification, operation, or decommissioning of CSE
 12 systems in the unit; or
 13 (3) after approving an application or a supplemented
 14 application, impose unreasonable requirements upon a
 15 project owner, including any of the requirements set forth in
 16 subdivision (2), at any point during the project owner's
 17 construction, installation, siting, modification, operation, or
 18 decommissioning of CSE systems in the unit.
- 19 Sec. 11. (a) Not later than thirty (30) days after the date of a
 20 permit authority's decision under section 10 of this chapter to
 21 approve or deny an application or a supplemented application:
 22 (1) the project owner;
 23 (2) an interested party described in section 9(a)(8)(C) through
 24 9(a)(8)(D) of this chapter; or
 25 (3) at least twenty-five (25) residents of the unit represented
 26 by an attorney licensed to practice law in Indiana;
 27 may file with the commission a petition requesting a review of the
 28 permit authority's decision.
- 29 (b) Upon receiving a petition under subsection (a), the
 30 commission shall, in writing:
 31 (1) provide notice of the filing of a petition to:
 32 (A) the permit authority; and
 33 (B) the project owner, if the project owner is not the
 34 petitioner; and
 35 (2) request from:
 36 (A) the permit authority;
 37 (B) the petitioner;
 38 (C) the project owner; and
 39 (D) an interested party described in section 9(a)(8)(C)
 40 through 9(a)(8)(D) of this chapter that is a party to the
 41 petition;
 42 any information required by the commission to make a



- 1 **determination on the petition.**
 2 **Any information requested by the commission under subdivision**
 3 **(2) shall be submitted to the commission not later than thirty (30)**
 4 **days after the date of the commission's written request.**
 5 **(c) Not later than one hundred fifty (150) days after receiving all**
 6 **information requested under subsection (b)(2), the commission**
 7 **shall:**
 8 **(1) after notice and an opportunity for hearing; and**
 9 **(2) consistent with the policy set forth in IC 8-1-2-0.5;**
 10 **issue an order with respect to the permit authority's decision under**
 11 **section 10 of this chapter.**
 12 **(d) The commission's order under subsection (c) must include**
 13 **the commission's findings as to:**
 14 **(1) the reasonableness of the permit authority's decision**
 15 **under section 10 of this chapter; and**
 16 **(2) the parties' compliance with:**
 17 **(A) this chapter;**
 18 **(B) the default standards set forth in IC 8-1-42, if**
 19 **applicable under IC 8-1-42-1(a); and**
 20 **(C) in the case of a unit described in section 1(b)(2) of this**
 21 **chapter, any part of the unit's commercial solar regulation,**
 22 **to the extent such part:**
 23 **(i) is not inconsistent with this chapter; and**
 24 **(ii) does not include standards that are more restrictive,**
 25 **directly or indirectly, than the default standards set**
 26 **forth in IC 8-1-42.**
 27 **(e) In the commission's order under subsection (c), the**
 28 **commission may affirm, vacate, or modify the permit authority's**
 29 **decision as the public convenience and necessity may require.**
 30 **(f) In the commission's order under subsection (c), the**
 31 **commission shall not consider:**
 32 **(1) the reasonableness of the default standards set forth in**
 33 **IC 8-1-42; or**
 34 **(2) relief regarding:**
 35 **(A) asserted effects on health;**
 36 **(B) asserted effects on aesthetics;**
 37 **(C) asserted effects on property values; or**
 38 **(D) any other requested relief distinct from the factors set**
 39 **forth in subsection (d).**
 40 **(g) The order of the commission under subsection (c) is**
 41 **considered a final order, subject to appeal under IC 8-1-3.**
 42 **Sec. 12. (a) At any time after a permit authority issues a decision**



1 under section 10 of this chapter with respect to the construction,
 2 installation, siting, modification, operation, or decommissioning of
 3 one (1) or more CSE systems in the unit, an interested party
 4 described in section 9(a)(8)(C) through 9(a)(8)(D) of this chapter
 5 may file a complaint with the project owner alleging that the
 6 project owner has failed to comply with:

- 7 (1) this chapter;
 8 (2) the default standards set forth in IC 8-1-42, if applicable
 9 under IC 8-1-42-1(a); or
 10 (3) in a unit described in section 1(b)(2) of this chapter, any
 11 part of the unit's commercial solar regulation, to the extent
 12 such part:
 13 (A) is not inconsistent with this chapter; and
 14 (B) does not include standards that are more restrictive,
 15 directly or indirectly, than the default standards set forth
 16 in IC 8-1-42.

17 (b) An interested party that files a complaint under this section
 18 shall do so in accordance with the project owner's dispute
 19 resolution process, as set forth in the project owner's application
 20 under section 9(a)(9) of this chapter. The following apply with
 21 respect to a complaint filed under this section:

- 22 (1) The project owner shall:
 23 (A) make a good faith effort to resolve the complaint; and
 24 (B) conduct any investigation required to resolve the
 25 complaint at the project owner's expense.
 26 (2) Not later than thirty (30) days after receiving the
 27 complaint, the project owner shall provide an initial response
 28 to the complainant.
 29 (3) The project owner shall:
 30 (A) make a good faith effort to resolve the complaint not
 31 later than forty-five (45) days after receiving the
 32 complaint; and
 33 (B) notify the permit authority if the complaint is not
 34 resolved within the forty-five (45) day period set forth in
 35 clause (A).

36 (c) If a complaint under this section:

- 37 (1) is filed by a party described in section 11(a)(2) or 11(a)(3)
 38 of this chapter; and
 39 (2) is not resolved within the forty-five (45) day period set
 40 forth in subsection (b)(3)(A);

41 the complainant may file with the commission a petition requesting
 42 a review of the complaint. A petition for review under this



1 subsection must be filed not later than sixty (60) days after the date
 2 of the filing of the complaint with the project owner under this
 3 section.

4 (d) Upon receiving a petition under subsection (c), the
 5 commission shall, in writing:

6 (1) notify the project owner of the filing of petition; and

7 (2) request from:

8 (A) the project owner;

9 (B) the petitioner; and

10 (C) the permit authority;

11 any information required by the commission to make a
 12 determination on the petition.

13 Any information requested by the commission under subdivision
 14 (2) shall be submitted to the commission not later than thirty (30)
 15 days after the date of the commission's written request.

16 (e) Not later than ninety (90) days after receiving all
 17 information requested under subsection (d)(2), the commission
 18 shall issue an order with respect to the complaint. The commission
 19 may issue an order under this subsection without a hearing. The
 20 commission's resolution of the complaint is limited to the scope of
 21 the complaint regarding the project owner's compliance with:

22 (1) this chapter;

23 (2) the default standards set forth in IC 8-1-42, if applicable
 24 under IC 8-1-42-1(a); or

25 (3) in the case of a unit described in section 1(b)(2) of this
 26 chapter, any part of the unit's commercial solar regulation, to
 27 the extent such part:

28 (A) is not inconsistent with this chapter; and

29 (B) does not include standards that are more restrictive,
 30 directly or indirectly, than the default standards set forth
 31 in IC 8-1-42;

32 as applicable.

33 (f) In the commission's order under subsection (e), the
 34 commission may order such relief as the public convenience and
 35 necessity may require.

36 (g) In the commission's order under subsection (e), the
 37 commission shall not consider:

38 (1) the reasonableness of the default standards set forth in
 39 IC 8-1-42; or

40 (2) relief regarding:

41 (A) asserted effects on health;

42 (B) asserted effects on aesthetics;



1 **(C) asserted effects on property values; or**
2 **(D) any other requested relief distinct from the factors set**
3 **forth in subsection (e).**
4 **(h) The commission's order under subsection (e) is considered**
5 **a final order, subject to appeal under IC 8-1-3.**
6 **SECTION 8. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities, Energy and Telecommunications, to which was referred House Bill 1381, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 10, delete "The standards set forth in sections 10 through 13" and insert "**Except as provided in subsection (d), the standards set forth in sections 10 through 14**".

Page 4, line 40, delete "not inconsistent with:" and insert "**not:**

(A) more restrictive than this chapter; or

(B) inconsistent with IC 36-7-5.3."

Page 4, delete lines 41 through 42, begin a new paragraph and insert:

"(d) A unit may:

(1) adopt and enforce a wind power regulation that includes standards that:

(A) concern the construction, installation, siting, modification, operation, or decommissioning of wind power devices in the unit; and

(B) are less restrictive than the standards set forth in this chapter; or

(2) waive or make less restrictive any standard set forth in:

(A) this chapter; or

(B) a wind power regulation adopted by the unit in compliance with IC 36-1-3-8.7(f)(3);

with respect to any one (1) wind power device, subject to the consent of each owner of property on which, or adjacent to where, the particular wind power device will be located."

Page 5, line 1, delete "(d)," and insert "(f),".

Page 5, line 9, after "road;" insert "or".

Page 5, delete lines 11 through 13.

Page 5, line 18, delete "(d)," and insert "(f),".

Page 5, line 24, delete "two (2)" and insert "**three (3)**".

Page 5, between lines 25 and 26, begin a new paragraph and insert:

"(c) Except as otherwise allowed by IC 36-7-4-1109, a project owner may not install or locate a wind power device on property in a unit unless the distance, measured as a straight line, from the vertical centerline of the base of the wind power device to the nearest edge of the right-of-way for any utility transmission or distribution line is equal to a distance that is at least one and two-tenths (1.2) times the wind power device's blade tip height, as



measured from the ground to the tip of the blade.

(d) Except as otherwise allowed by IC 36-7-4-1109, a project owner may not install or locate a wind power device on property in a unit unless the distance, measured as a straight line, from the vertical centerline of the base of the wind power device to the property line of any undeveloped land within the unit that is zoned or platted for residential use is equal to a distance that is at least two (2) times the wind power device's blade tip height, as measured from the ground to the tip of the blade."

Page 5, line 26, delete "(c)" and insert "(e)".

Page 5, line 33, delete "(d)" and insert "(f)".

Page 5, line 33, delete "(a)" and insert "(a)(2)".

Page 6, line 5, after "any" insert "**dwelling on a**".

Page 6, line 12, after "affected" insert "**dwelling on a**".

Page 6, between lines 17 and 18, begin a new paragraph and insert:

"Sec. 12. Except as otherwise allowed by IC 36-7-4-1109, a wind power device installed in a unit must not interfere with:

- (1) television signals;**
- (2) microwave signals;**
- (3) agricultural global positioning systems;**
- (4) military defense radar; or**
- (5) radio reception."**

Page 6, line 18, delete "12." and insert "13."

Page 6, line 29, delete "13." and insert "14."

Page 8, line 37, delete "that captures and" and insert "**that:**

- (1) has a nameplate capacity of at least ten (10) megawatts; and**
- (2) captures and converts solar energy into electricity:**
 - (A) for the purpose of selling the electricity at wholesale; and**
 - (B) for use in locations other than where it is generated."**

Page 8, delete lines 38 through 40.

Page 11, line 1, delete "The" and insert "**Except as provided in subsection (d), the**".

Page 11, line 31, delete "not inconsistent with:" and insert "**not:**

- (A) more restrictive than this chapter; or**
- (B) inconsistent with IC 36-7-5.4."**

Page 11, delete lines 32 through 33, begin a new paragraph and insert:

"(d) A unit may:

- (1) adopt and enforce a commercial solar regulation that includes standards that:**



(A) concern the construction, installation, siting, modification, operation, or decommissioning of CSE systems in the unit; and

(B) are less restrictive than the standards set forth in this chapter; or

(2) waive or make less restrictive any standard set forth in:

(A) this chapter; or

(B) a commercial solar regulation adopted by the unit in compliance with IC 36-1-3-8.8(f)(3);

with respect to any one (1) CSE system, subject to the consent of each owner of property on which, or adjacent to where, the particular CSE system will be located."

Page 11, line 39, delete "centerline of" and insert "**nearest edge of the right-of-way for**".

Page 12, line 26, delete "twenty (20)" and insert "**twenty-five (25)**".

Page 13, line 6, delete "encouraged but is not required." and insert "**encouraged.**".

Page 13, line 13, delete "cables between banks" and insert "**all cables of up to thirty-four and one-half (34.5) kilovolts that are located between inverter locations and project substations shall be located and maintained underground. Other solar infrastructure, such as module-to-module collection cables, transmission lines, substations, junction boxes, and other typical aboveground infrastructure may be located and maintained above ground. Buried cables shall be**".

Page 13, delete lines 14 through 16.

Page 13, line 17, delete "shall be buried underground".

Page 13, run in lines 13 through 17.

Page 20, line 37, delete "that captures and converts solar" and insert "**that:**

(1) has a nameplate capacity of at least ten (10) megawatts; and

(2) captures and converts solar energy into electricity:

(A) for the purpose of selling the electricity at wholesale; and

(B) for use in locations other than where it is generated."

Page 20, delete lines 38 through 40.

Page 21, line 23, delete "CSE system" and insert "**commercial solar**".

Page 26, delete lines 38 through 40, begin a new line double block indented and insert:

"(C) **political subdivisions in which, or adjacent to where,**



**the project will be located; and
(D) owners of property on which, or adjacent to where, the project will be located;".**

Page 29, line 30, delete "or".

Page 29, delete lines 31 through 32, begin a new line block indented and insert:

**"(2) an interested party described in section 9(a)(10)(C) through 9(a)(10)(D) of this chapter; or
(3) at least twenty-five (25) residents of the unit represented by an attorney licensed to practice law in Indiana;".**

Page 29, line 37, delete "notify the permit authority of the filing of a petition; and" and insert **"provide notice of the filing of a petition to:**

**(A) the permit authority; and
(B) the project owner, if the project owner is not the petitioner; and".**

Page 29, line 41, delete "owner, if the project owner is not the" and insert **"owner; and".**

Page 29, delete line 42.

Page 30, line 1, delete "any other" and insert **"an".**

Page 30, line 2, delete "9(a)(10)(B)" and insert **"9(a)(10)(C)".**

Page 30, line 9, delete "ninety (90)" and insert **"one hundred fifty (150)".**

Page 30, line 32, delete "may:" and insert **"may affirm, vacate, or modify the permit authority's decision as the public convenience and necessity may require.**

(f) In the commission's order under subsection (c), the commission shall not consider:

(1) the reasonableness of the default standards set forth in IC 8-1-41; or

(2) relief regarding:

(A) asserted effects on health;

(B) asserted effects on aesthetics;

(C) asserted effects on property values; or

(D) any other requested relief distinct from the factors set forth in subsection (d).".

Page 30, delete lines 33 through 36.

Page 30, line 37, delete "(f)" and insert **"(g)".**

Page 30, line 39, delete "before or".

Page 31, line 1, delete "9(a)(10)(B)" and insert **"9(a)(10)(C)".**

Page 31, line 33, delete "section is not resolved within the" and insert **"section:**



(1) is filed by a party described in section 11(a)(2) or 11(a)(3) of this chapter; and

(2) is not resolved within the forty-five (45) day period set forth in subsection (b)(3)(A);

the complainant may file with the commission a petition requesting a review of the complaint. A petition for review under this subsection must be filed not later than sixty (60) days after the date of the filing of the complaint with the project owner under this section."

Page 31, delete lines 34 through 36.

Page 32, line 9, after "complaint." insert **"The commission may issue an order under this subsection without a hearing."**

Page 32, line 10, delete "order must include the commission's findings as to" and insert **"resolution of the complaint is limited to the scope of the complaint regarding"**.

Page 32, between lines 25 and 26, begin a new paragraph and insert: **"(g) In the commission's order under subsection (e), the commission shall not consider:**

(1) the reasonableness of the default standards set forth in IC 8-1-41; or

(2) relief regarding:

(A) asserted effects on health;

(B) asserted effects on aesthetics;

(C) asserted effects on property values; or

(D) any other requested relief distinct from the factors set forth in subsection (e)."

Page 32, line 26, delete "(g)" and insert **"(h)"**.

Page 33, line 21, delete "that captures and" and insert **"that:**

(1) has a nameplate capacity of at least ten (10) megawatts; and

(2) captures and converts solar energy into electricity:

(A) for the purpose of selling the electricity at wholesale; and

(B) for use in locations other than where it is generated."

Page 33, delete lines 22 through 24.

Page 37, delete lines 1 through 3, begin a new line double block indented and insert:

"(C) political subdivisions in which, or adjacent to where, the project will be located; and

(D) owners of property on which, or adjacent to where, the project will be located;"

Page 39, line 35, delete "or".



Page 39, delete lines 36 through 37, begin a new line block indented and insert:

- "(2) an interested party described in section 9(a)(8)(C) through 9(a)(8)(D) of this chapter; or
(3) at least twenty-five (25) residents of the unit represented by an attorney licensed to practice law in Indiana;"**.

Page 39, line 42, delete "notify the permit authority of the filing of a petition; and" and insert **"provide notice of the filing of a petition to:**

- (A) the permit authority; and
(B) the project owner, if the project owner is not the petitioner; and"**.

Page 40, line 4, delete "owner, if the project owner is not the" and insert **"owner; and"**.

Page 40, delete line 5.

Page 40, line 6, delete "any other" and insert **"an"**.

Page 40, line 7, delete "9(a)(8)(B)" and insert **"9(a)(8)(C)"**.

Page 40, line 14, delete "ninety (90)" and insert **"one hundred fifty (150)"**.

Page 40, line 37, delete "may:" and insert **"may affirm, vacate, or modify the permit authority's decision as the public convenience and necessity may require."**

(f) In the commission's order under subsection (c), the commission shall not consider:

- (1) the reasonableness of the default standards set forth in IC 8-1-42; or
(2) relief regarding:
(A) asserted effects on health;
(B) asserted effects on aesthetics;
(C) asserted effects on property values; or
(D) any other requested relief distinct from the factors set forth in subsection (d)."**

Page 40, delete lines 38 through 41.

Page 40, line 42, delete "(f)" and insert **"(g)"**.

Page 41, line 2, delete "before or".

Page 41, line 6, delete "9(a)(8)(B)" and insert **"9(a)(8)(C)"**.

Page 41, line 38, delete "section is not resolved within the" and insert **"section:**

- (1) is filed by a party described in section 11(a)(2) or 11(a)(3) of this chapter; and
(2) is not resolved within the forty-five (45) day period set forth in subsection (b)(3)(A);**



the complainant may file with the commission a petition requesting a review of the complaint. A petition for review under this subsection must be filed not later than sixty (60) days after the date of the filing of the complaint with the project owner under this section."

Page 41, delete lines 39 through 41.

Page 42, line 14, after "complaint." insert **"The commission may issue an order under this subsection without a hearing."**

Page 42, line 15, delete "order must include the commission's findings as to" and insert **"resolution of the complaint is limited to the scope of the complaint regarding"**.

Page 42, between lines 30 and 31, begin a new paragraph and insert:

"(g) In the commission's order under subsection (e), the commission shall not consider:

(1) the reasonableness of the default standards set forth in IC 8-1-42; or

(2) relief regarding:

(A) asserted effects on health;

(B) asserted effects on aesthetics;

(C) asserted effects on property values; or

(D) any other requested relief distinct from the factors set forth in subsection (e)."

Page 42, line 31, delete "(g)" and insert **"(h)"**.

and when so amended that said bill do pass.

(Reference is to HB 1381 as introduced.)

SOLIDAY

Committee Vote: yeas 12, nays 1.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1381 be amended to read as follows:

Page 1, line 5, delete "This" and insert **"Except as provided in subsections (b) and (c), this"**.

Page 1, line 6, delete "seeks" and insert **"files an initial application under IC 36-7-5.3-9"**.

Page 2, between lines 5 and 6, begin a new paragraph and insert:

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"(c) This chapter does not:

(1) apply to any proposal, request, or application that:

(A) concerns the construction, installation, siting, modification, operation, or decommissioning of one (1) or more wind power devices in a unit;

(B) is submitted by a project owner to a unit before July 1, 2021; and

(C) is pending as of July 1, 2021;

as set forth in IC 36-7-4-1109, regardless of whether the unit is a unit described in subsection (a);

(2) affect the:

(A) construction;

(B) installation;

(C) siting;

(D) modification;

(E) operation; or

(F) decommissioning;

of one (1) or more wind power devices in a unit that before July 1, 2021, has approved such construction, installation, siting, modification, operation, or decommissioning, regardless of whether the unit is a unit described in subsection (a); or

(3) affect any:

(A) economic development agreement; or

(B) other agreement;

entered before July 1, 2021, with respect to the construction, installation, siting, modification, operation, or decommissioning of one (1) or more wind power devices in one (1) or more units."

Page 4, line 10, delete "(d)," and insert "**(d) and section 1(b) and 1(c) of this chapter,**".

Page 4, line 14, delete "chapter." and insert "**chapter after June 30, 2021.**".

Page 7, line 9, delete "not interfere with:" and insert "**be installed in a manner so as to minimize and mitigate impacts to:**".

Page 7, line 13, delete "or".

Page 7, line 14, delete "reception." and insert "**reception; or**".

Page 7, between lines 14 and 15, begin a new line block indented and insert:

"(6) weather and doppler radar."

Page 9, line 15, delete "This" and insert "**Except as provided in subsections (b) and (c), this**".



Page 9, line 16, delete "seeks" and insert **"files an initial application under IC 36-7-5.4-9"**.

Page 9, between lines 32 and 33, begin a new paragraph and insert:

"(c) This chapter does not:

(1) apply to any proposal, request, or application that:

(A) concerns the construction, installation, siting, modification, operation, or decommissioning of one (1) or more CSE systems in a unit;

(B) is submitted by a project owner to a unit before July 1, 2021; and

(C) is pending as of July 1, 2021;

as set forth in IC 36-7-4-1109, regardless of whether the unit is a unit described in subsection (a);

(2) affect the:

(A) construction;

(B) installation;

(C) siting;

(D) modification;

(E) operation; or

(F) decommissioning;

of one (1) or more CSE systems in a unit that before July 1, 2021, has approved such construction, installation, siting, modification, operation, or decommissioning, regardless of whether the unit is a unit described in subsection (a); or

(3) affect any:

(A) economic development agreement; or

(B) other agreement;

entered before July 1, 2021, with respect to the construction, installation, siting, modification, operation, or decommissioning of one (1) or more CSE systems in one (1) or more units."

Page 9, line 41, after "lines," insert **"generation tie lines,"**

Page 12, line 1, delete "(d)," and insert **"(d) and section 1(b) and 1(c) of this chapter,"**

Page 12, line 5, delete "chapter." and insert **"chapter after June 30, 2021."**

Page 13, line 42, delete "is" and insert **"solar panels are"**.

Page 14, line 15, delete "shall:" and insert **"shall plant, establish, and maintain for the life of the CSE system perennial vegetated ground cover on the ground around and under solar panels, and in project site buffer areas. The use of pollinator seed mixes in the planting of ground cover required by this section is encouraged. A**



unit or permit authority may require a project owner to prepare for a project site a vegetation plan that:

- (1) is compatible with each CSE system on the project site;
- (2) provides for the planting of noninvasive species and the use of native or naturalized species if the planting and use of noninvasive and native or naturalized species are:

- (A) appropriate to the region;
- (B) economically feasible; and
- (C) agreed to by the landowner;

in order to reduce storm water runoff and erosion at the site and to provide habitat for wildlife and insects; and

- (3) provides for site preparation and maintenance practices designed to control invasive species and noxious weeds (as defined in IC 15-16-7-2)."

Page 14, delete lines 16 through 23.

Page 14, line 38, delete "may be located" and insert "**may**:"

- (1) be located above ground; or
- (2) in the case of cables or lines of up to thirty-four and one-half (34.5) kilovolts, be buried underground at:
 - (A) a depth of at least forty-eight (48) inches below grade, so as to not interfere with drainage tile or ditch repairs; or
 - (B) another depth, as necessitated by conditions; as determined in consultation with the landowner."

Page 14, delete lines 39 through 40.

Page 15, line 5, delete "not interfere with:" and insert "**be installed in a manner so as to minimize and mitigate impacts to:**"

Page 15, line 9, delete "or".

Page 15, line 10, delete "reception." and insert "**reception; or**".

Page 15, between lines 10 and 11, begin a new line block indented and insert:

"(6) weather and doppler radar."

Page 20, line 37, delete "After" and insert "**Except as provided in IC 8-1-41-1(c), after**".

Page 21, line 21, delete "Until" and insert "**Except as provided in IC 8-1-41-1(c), until**".

Page 22, line 20, after "lines," insert "**generation tie lines,**".

Page 22, line 34, delete "After" and insert "**Except as provided in IC 8-1-42-1(c), after**".

Page 23, line 19, delete "Until" and insert "**Except as provided in IC 8-1-42-1(c), until**".

Page 24, line 3, delete "This" and insert "**Except as provided in subsections (c) and (d), this**".



Page 24, between lines 31 and 32, begin a new paragraph and insert:

"(d) This chapter does not:

(1) apply to any proposal, request, or application that:

(A) concerns the construction, installation, siting, modification, operation, or decommissioning of one (1) or more wind power devices in a unit;

(B) is submitted by a project owner to a unit before July 1, 2021; and

(C) is pending as of July 1, 2021;

as set forth in IC 36-7-4-1109, regardless of whether the unit is a unit described in subsection (b);

(2) affect the:

(A) construction;

(B) installation;

(C) siting;

(D) modification;

(E) operation; or

(F) decommissioning;

of one (1) or more wind power devices in a unit that before July 1, 2021, has approved such construction, installation, siting, modification, operation, or decommissioning, regardless of whether the unit is a unit described in subsection (b); or

(3) affect any:

(A) economic development agreement; or

(B) other agreement;

entered before July 1, 2021, with respect to the construction, installation, siting, modification, operation, or decommissioning of one (1) or more wind power devices in one (1) or more units."

Page 26, line 8, delete "The" and insert **"Except as provided in section 1(c) and 1(d) of this chapter, the"**.

Page 26, line 11, delete "chapter." and insert **"chapter after June 30, 2021."**

Page 34, line 41, delete "This" and insert **"Except as provided in subsections (c) and (d), this"**.

Page 35, between lines 27 and 28, begin a new paragraph and insert:

"(d) This chapter does not:

(1) apply to any proposal, request, or application that:

(A) concerns the construction, installation, siting, modification, operation, or decommissioning of one (1) or more CSE systems in a unit;



(B) is submitted by a project owner to a unit before July 1, 2021; and

(C) is pending as of July 1, 2021; as set forth in IC 36-7-4-1109, regardless of whether the unit is a unit described in subsection (b);

(2) affect the:

(A) construction;

(B) installation;

(C) siting;

(D) modification;

(E) operation; or

(F) decommissioning;

of one (1) or more CSE systems in a unit that before July 1, 2021, has approved such construction, installation, siting, modification, operation, or decommissioning, regardless of whether the unit is a unit described in subsection (b); or

(3) affect any:

(A) economic development agreement; or

(B) other agreement;

entered before July 1, 2021, with respect to the construction, installation, siting, modification, operation, or decommissioning of one (1) or more CSE systems in one (1) or more units."

Page 35, line 36, after "lines," insert "**generation tie lines,**".

Page 37, line 11, delete "The" and insert "**Except as provided in section 1(c) and 1(d) of this chapter, the**".

Page 37, line 14, delete "chapter." and insert "**chapter after June 30, 2021.**".

Page 39, between lines 25 and 26, begin a new line block indented and insert:

"(10) A copy of any vegetation plan required by the permit authority or the unit under IC 8-1-42-11."

Page 39, line 26, delete "(10)" and insert "**(11)**".

Page 39, line 30, delete "(11)" and insert "**(12)**".

(Reference is to HB 1381 as printed February 11, 2021.)

NEGELE

