



April 7, 2021

ENGROSSED HOUSE BILL No. 1381

DIGEST OF HB 1381 (Updated April 6, 2021 12:42 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 projects 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) Wind turbine light mitigation technology. (7) Required repairs to
(Continued next page)

Effective: Upon passage; July 1, 2021.

Soliday, Negele, Moed

(SENATE SPONSORS — MESSMER, KOCH, RANDOLPH LONNIE M)

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.

February 17, 2021, engrossed. Read third time, passed. Yeas 58, nays 39.

SENATE ACTION

March 11, 2021, read first time and referred to Committee on Utilities.

April 1, 2021, amended, reported favorably — Do Pass; reassigned to Committee on Tax and Fiscal Policy.

April 6, 2021, amended, reported favorably — Do Pass.

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drainage related infrastructure. (8) Project decommissioning. Provides that a unit that has in effect on July 1, 2021, a wind power regulation that includes standards that are more restrictive than the default wind power standards set forth in the bill may: (1) continue to apply and enforce the unit's existing wind power regulation with respect to a proposed project; or (2) allow within the unit the establishment of a renewable energy district (RED) in which a proposed project will be located. Provides that a unit that has not adopted a wind power regulation may: (1) restrict, or impose conditions or limitations on, wind projects in the unit if the unit first adopts a wind power regulation that includes standards that are not more restrictive than the bill's default standards; or (2) allow within the unit the establishment of a RED in which a proposed project will be located. Provides that the bill's default standards for wind projects apply within the boundaries of a RED. Provides that a unit that: (1) adopts a wind power regulation that complies with the bill's standards; or (2) allows the establishment of one or more REDs in the unit; may impose a one-time construction fee for each wind power device included in a project application submitted to the unit after June 30, 2021. Provides that such a construction fee: (1) is payable by the project owner upon the commencement of construction of each wind power device; and (2) may not exceed \$3,000 per megawatt of installed capacity. 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) Required repairs to drainage related infrastructure. (10) Project decommissioning. Provides that a unit that has in effect on July 1, 2021, a commercial solar regulation that includes standards that are more restrictive than the default CSE system standards set forth in the bill may: (1) continue to apply and enforce the unit's existing commercial solar regulation with respect to a proposed project; or (2) allow within the unit the establishment of a renewable energy district (RED) in which a proposed project will be located. Provides that a unit that has not adopted a commercial solar regulation may: (1) restrict, or impose conditions or limitations on, commercial solar projects in the unit if the unit first adopts a commercial solar regulation that includes standards that are not more restrictive than the bill's default standards; or (2) allow within the unit the establishment of a RED in which a proposed project will be located. Provides that the bill's default standards for CSE systems apply within the boundaries of a RED. Provides that a unit that: (1) adopts a commercial solar regulation that complies with the bill's standards; or (2) allows the establishment of one or more REDs in the unit; may impose a one-time construction fee for each CSE system included in a project application submitted to the unit after June 30, 2021. Provides that such a construction fee: (1) is payable by the project owner upon the commencement of construction of each CSE system; and (2) may not exceed \$1,000 per megawatt of installed capacity. Provides a project owner is exempt from any construction fee imposed by a unit with respect to: (1) a wind power project; or (2) a commercial solar project; if, at the time of application, the project owner demonstrates that the project owner has executed before July 1, 2021, a commercial offtake agreement with respect to the project. Amends the home rule statute to provide that the following apply to a wind power regulation or a commercial solar regulation adopted by a unit after June 30, 2021: (1) The regulation must be approved by the unit's plan commission. (2) Any procedures set forth in the regulation with respect to the permitting or approval process for the siting or installation of wind power devices or CSE systems in the unit must comply with the procedural processes set forth in the bill. (3) Any standards included in the regulation must not be more restrictive than the default standards set forth in the bill.

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Digest Continued

Establishes procedures for the permitting or approval process for the siting of wind power devices in a local unit that: (1) does not have a wind power regulation in effect after June 30, 2021; or (2) does have a wind power regulation in effect after June 30, 2021, and has opted to allow the establishment of a RED within the unit in connection with a wind power project. Establishes procedures for the permitting or approval process for the siting of CSE systems in a local unit that: (1) does not have a commercial solar regulation in effect after June 30, 2021; or (2) does have a commercial solar regulation in effect after June 30, 2021, and has opted to allow the establishment of a RED within the unit in connection with a commercial solar project. Provides that not later than five years after the date a wind power project or a commercial solar project is approved by a unit, the project owner must: (1) submit all necessary applications for required construction permits and other local permits; and (2) complete the development process; for the project. Provides that a permit authority may require a project owner that fails to comply with this time frame to submit a new application with respect to the project. Provides that: (1) a project owner; or (2) certain other interested parties; aggrieved by the decision of a unit's permit authority with respect to a proposed wind project or a proposed commercial solar project may file a complaint for appropriate relief in the circuit or superior court of a county having jurisdiction. Provides that such a complaint must be filed not later than 30 days after the date of the permit authority's written decision.

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April 7, 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.

ENGROSSED 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), the**
6 **standards set forth in this chapter apply to a project owner that,**
7 **after June 30, 2021, files an initial application under IC 36-7-5.3-9**
8 **for a project to install or locate one (1) or more wind power devices**
9 **in a unit that:**

10 **(1) either:**

11 **(A) has not adopted a wind power regulation; or**

12 **(B) has in effect on July 1, 2021, a wind power regulation**
13 **that includes standards that are more restrictive, directly**
14 **or indirectly, than the standards set forth in this chapter;**
15 **and**

16 **(2) has opted to allow the establishment of a renewable energy**
17 **district within the unit in connection with the project.**

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1 (b) Subject to a unit's planning and zoning powers under
 2 IC 36-7, this chapter does not apply to a property owner that seeks
 3 to install a wind power device on the property owner's premises for
 4 the purpose of generating electricity to meet or offset all or part of
 5 the need for electricity on the premises, whether through
 6 distributed generation, participation in a net metering or feed-in
 7 tariff program offered by an electricity supplier (as defined in
 8 IC 8-1-40-4), or otherwise.

9 (c) This chapter does not:

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

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

14 (B) is submitted by a project owner to a unit before July 1,
 15 2021; and

16 (C) is pending as of July 1, 2021;
 17 as set forth in IC 36-7-4-1109;

18 (2) affect the:

19 (A) construction;

20 (B) installation;

21 (C) siting;

22 (D) modification;

23 (E) operation; or

24 (F) decommissioning;

25 of one (1) or more wind power devices in a unit that before
 26 July 1, 2021, has approved such construction, installation,
 27 siting, modification, operation, or decommissioning; or

28 (3) affect any:

29 (A) economic development agreement; or

30 (B) other agreement;

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

35 Sec. 2. As used in this chapter, "documented right of site
 36 control", with respect to a site within a renewable energy district
 37 established under this chapter, means any of the following:

38 (1) Ownership of the site.

39 (2) A leasehold or easement interest in the site.

40 (3) An option to purchase or acquire a leasehold or easement
 41 interest in the site.

42 (4) Any other contractual or legal right to possess or occupy



1 the site.

2 **Sec. 3. As used in this chapter, "dwelling" means any building,**
 3 **structure, or part of a building or structure that is occupied as, or**
 4 **is designed or intended for occupancy as, a residence by one (1) or**
 5 **more families or individuals.**

6 **Sec. 4. As used in this chapter, "interconnection queue" means**
 7 **the study process by which a regional transmission organization**
 8 **(as defined in IC 8-1-38-6) conducts reliability and deliverability**
 9 **studies to determine whether there is available transmission**
 10 **capacity to accommodate the interconnection of a new proposed**
 11 **generating facility or whether network upgrades are needed.**

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

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

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

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

17 **(i) to install or locate one (1) or more wind power devices**
 18 **or other facilities related to a wind power project**
 19 **(including power lines, temporary or permanent access**
 20 **roads, or other temporary or permanent infrastructure);**
 21 **or**

22 **(ii) to otherwise enter into a lease or any other**
 23 **agreement with the owner of the property for use of all**
 24 **or part of the property in connection with a wind power**
 25 **project; or**

26 **(B) the owner of the property does not consent:**

27 **(i) to having one (1) or more wind power devices or other**
 28 **facilities related to a wind power project (including**
 29 **power lines, temporary or permanent access roads, or**
 30 **other temporary or permanent infrastructure) installed**
 31 **or located; or**

32 **(ii) to otherwise enter into a lease or any other**
 33 **agreement with the project owner for use of all or part**
 34 **of the property in connection with a wind power project;**

35 **regardless of whether the property is located within or outside the**
 36 **boundaries of a renewable energy district.**

37 **(b) The term does not include a lot or parcel of real property**
 38 **otherwise described in subsection (a) if the owner of the lot or**
 39 **parcel consents to participate in a wind power project through a**
 40 **neighbor agreement, a participation agreement, or another similar**
 41 **arrangement or agreement with a project owner.**

42 **Sec. 6. (a) As used in this chapter, "permit authority" means:**



- 1 (1) a unit; or
 2 (2) a board, a commission, or any other governing body of a
 3 unit;
 4 that makes legislative or administrative decisions concerning the
 5 construction, installation, siting, modification, operation, or
 6 decommissioning of wind power devices in the unit.
 7 (b) The term does not include:
 8 (1) the state or any of its agencies, departments, boards,
 9 commissions, authorities, or instrumentalities; or
 10 (2) a court or other judicial body that reviews decisions or
 11 rulings made by a permit authority.
 12 Sec. 7. (a) As used in this chapter, "project owner" means a
 13 person that:
 14 (1) will own one (1) or more wind power devices proposed to
 15 be located in a unit; or
 16 (2) owns one (1) or more wind power devices located in a unit.
 17 (b) The term includes an agent or a representative of a person
 18 described in subsection (a).
 19 (c) The term does not include an electricity supplier (as defined
 20 in IC 8-1-2.3-2).
 21 Sec. 8. As used in this chapter, "renewable energy district", or
 22 "RED", means a district:
 23 (1) established in connection with a project, the initial
 24 application for which is filed under IC 36-7-5.3 after June 30,
 25 2021, to install or locate one (1) or more:
 26 (A) wind power devices;
 27 (B) commercial solar energy systems (as defined in
 28 IC 8-1-42-2); or
 29 (C) both;
 30 in a unit described in section 1(a)(1) of this chapter;
 31 (2) the area of which consists of:
 32 (A) the footprint of the project, as identified by the project
 33 owner in the project owner's application under IC 36-7-5;
 34 plus
 35 (B) an area that extends at least one and one-half (1.5)
 36 miles from the boundary lines of the footprint in all
 37 directions; and
 38 (3) with respect to which the project owner has a documented
 39 right of site control, as demonstrated in the project owner's
 40 application under IC 36-7-5.3-9, to the extent required to
 41 enable the project to enter the interconnection queue of the
 42 Midcontinent Independent System Operator (MISO) or



1 another appropriate regional transmission organization.

2 **Sec. 9. (a) As used in this chapter, "unit" refers to:**

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

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

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

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

11 (2) a municipality, if:

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

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

17 (b) The term refers to:

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

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

28 **Sec. 10. As used in this chapter, "wind power device" means a**
29 **device, including a windmill or a wind turbine, that is designed to**
30 **use the kinetic energy of moving air to provide mechanical energy**
31 **or to produce electricity.**

32 **Sec. 11. As used in this chapter, "wind power regulation" refers**
33 **to any ordinance or regulation, including any:**

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

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

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

39 **Sec. 12. (a) The following apply if a permit authority for a unit**
40 **described in section 1(a)(1) of this chapter receives after June 30,**
41 **2021, a proposal from a project owner for a project to install or**
42 **locate one (1) or more wind power devices in the unit:**



1 (1) A unit described in section 1(a)(1)(B) of this chapter that
 2 has in effect on July 1, 2021, a wind power regulation that
 3 includes standards that are more restrictive, directly or
 4 indirectly, than the standards set forth in sections 13 through
 5 19 of this chapter may:

6 (A) continue to apply and enforce the unit's existing wind
 7 power regulation with respect to the proposed project; or
 8 (B) allow within the unit the establishment of a renewable
 9 energy district in which the proposed project will be
 10 located.

11 (2) A unit described in section 1(a)(1)(A) of this chapter that
 12 has not adopted a wind power regulation may:

13 (A) restrict, or impose conditions or limitations on, the
 14 construction, installation, siting, modification, operation,
 15 or decommissioning of one (1) or more wind power devices
 16 in the unit if the unit first adopts a wind power regulation
 17 that includes standards that are not more restrictive,
 18 directly or indirectly, than the standards set forth in
 19 sections 13 through 19 of this chapter; or

20 (B) allow within the unit the establishment of a
 21 renewable energy district in which the proposed project
 22 will be located.

23 (b) This subsection applies with respect to any proposal, the
 24 initial application for which is filed with a unit after June 30, 2021,
 25 by a project owner for a project to install or locate one (1) or more
 26 wind power devices in the unit. A unit that:

27 (1) is described in section 1(a)(1)(B) of this chapter and that
 28 allows within the unit the establishment of a RED in which the
 29 proposed project will be located, as described in subsection
 30 (a)(1)(B);

31 (2) is described in section 1(a)(1)(A) of this chapter and that:
 32 (A) adopts a wind power regulation that includes
 33 standards that are not more restrictive, directly or
 34 indirectly, than the standards set forth in this chapter; or
 35 (B) allows within the unit the establishment of a RED in
 36 which the proposed project will be located, as described in
 37 subsection (a)(2)(B); or

38 (3) has adopted before July 1, 2021, a wind power regulation
 39 that includes standards that are not more restrictive, directly
 40 or indirectly, than the standards set forth in this chapter;
 41 may impose a one-time construction fee for each wind power
 42 device included in a project application to which this subsection



1 applies. A construction fee imposed under this subsection is
 2 payable by the project owner upon the commencement of
 3 construction of each wind power device and may not exceed three
 4 thousand dollars (\$3,000) per megawatt of installed capacity.
 5 However, a project owner is exempt from any construction fee
 6 imposed by a unit under this subsection if, at the time of
 7 application, the project owner demonstrates that the project owner
 8 has executed before July 1, 2021, a commercial offtake agreement
 9 with respect to the project.

10 (c) A unit that imposes a construction fee under subsection (b)
 11 may allocate a percentage, to be determined by the unit, of the fees
 12 collected:

- 13 (1) for use within the project's footprint, or for the benefit of
 14 residents and businesses within the project's footprint, in the
 15 case of a unit described in subsection (b)(2)(A) or (b)(3); or
 16 (2) for use within the RED, or for the benefit of residents and
 17 businesses within the RED, in the case of a unit that allows
 18 within the unit the establishment of a renewable energy
 19 district in which the proposed project will be located, in the
 20 case of a unit described in subsection (b)(1) or (b)(2)(B).

21 In addition, a unit described in subdivision (1) or (2) may allocate
 22 a percentage, to be determined by the unit, of the property tax
 23 revenues or income tax revenues, or both, that are generated by the
 24 project, for use within the project footprint or within the RED, as
 25 applicable, or for the benefit of residents and businesses within the
 26 project footprint or within the RED, as applicable.

27 (d) Except as provided in:

- 28 (1) subsection (a);
 29 (2) IC 36-1-3-8.7; and
 30 (3) IC 36-7-5.3;

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

34 (e) A permit authority for a unit described in section 1(a)(1) of
 35 this chapter is responsible for enforcing compliance with the
 36 following:

- 37 (1) Within the boundaries of a RED established under
 38 subsection (a), the standards set forth in this chapter.
 39 (2) IC 36-7-5.3.

40 (f) A unit may:

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



- 1 (A) concern the construction, installation, siting,
 2 modification, operation, or decommissioning of wind
 3 power devices in the unit; and
 4 (B) are less restrictive than the standards set forth in this
 5 chapter;
 6 (2) waive or make less restrictive any standard set forth in
 7 this chapter
 8 with respect to any particular:
 9 (A) wind power device;
 10 (B) project described in section 8(1) of this chapter; or
 11 (C) RED; or
 12 (3) waive or make less restrictive any standard set forth in a
 13 wind power regulation adopted by the unit with respect to any
 14 particular:
 15 (A) wind power device; or
 16 (B) project described in section 8(1) of this chapter.
 17 (g) This subsection applies to any unit in which a RED is
 18 established in connection with a project described in section 8(1) of
 19 this chapter. For purposes of any standard set forth in this chapter
 20 that prescribes a minimum setback distance or another minimum
 21 distance from a wind power device to any:
 22 (1) right-of-way;
 23 (2) property line;
 24 (3) utility line;
 25 (4) dwelling; or
 26 (5) other line, facility, object, or structure;
 27 the prescribed minimum distance, as set forth in this chapter, shall
 28 apply with respect to each wind power device located within the
 29 RED, regardless of whether the right-of-way, property line, utility
 30 line, dwelling, or other line, facility, object, or structure from
 31 which the distance must be established is itself located within the
 32 RED.
 33 Sec. 13. (a) Subject to subsection (h), and except as otherwise
 34 allowed by IC 36-7-4-1109, a project owner may not install or
 35 locate a wind power device on property in a unit unless the
 36 distance, measured as a straight line, from the vertical centerline
 37 of the base of the wind power device to:
 38 (1) the centerline of any:
 39 (A) runway located on a public use airport, private use
 40 airport, or municipal airport;
 41 (B) public use highway, street, or road; or
 42 (C) railroad easement or right-of-way; or



1 **(2) the property line of any nonparticipating property;**
2 **is equal to a distance that is at least one and one-tenth (1.1) times**
3 **the wind power device's blade tip height, as measured from the**
4 **ground to the tip of the blade.**

5 **(b) Subject to subsection (h), and except as otherwise allowed by**
6 **IC 36-7-4-1109, a project owner may not install or locate a wind**
7 **power device on property in a unit unless the distance, measured**
8 **as a straight line, from the vertical centerline of the base of the**
9 **wind power device to the nearest point on the outer wall of a**
10 **dwelling located on a nonparticipating property is equal to a**
11 **distance that is at least three (3) times the wind power device's**
12 **blade tip height, as measured from the ground to the tip of the**
13 **blade.**

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

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

30 **(e) Except as otherwise allowed by IC 36-7-4-1109, a project**
31 **owner may not install or locate a wind power device on property**
32 **in a unit unless the distance, measured as a straight line, from the**
33 **vertical centerline of the base of the wind power device to the**
34 **property line of a state park is equal to a distance of at least one (1)**
35 **mile.**

36 **(f) A project owner may not install or locate a wind power**
37 **device within a RED unless the distance, measured as a straight**
38 **line, from the vertical centerline of the base of the wind power**
39 **device to the corporate boundaries of any municipality within the**
40 **RED is equal to a distance of at least one (1) mile. However, a**
41 **municipality within a RED may waive or reduce the minimum**
42 **distance prescribed by this subsection with respect to the**



1 installation of one (1) or more wind power devices.

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

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

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

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

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

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

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

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

41 (1) television signals;

42 (2) microwave signals;



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

5 Sec. 16. (a) Subject to subsection (b), and except as otherwise
 6 allowed by IC 36-7-4-1109, a project owner may not install or
 7 locate a wind power device in a unit unless the project owner
 8 demonstrates to the permit authority that the wind power device
 9 will operate in a manner such that the sound attributable to the
 10 wind power device will not exceed an hourly average sound level
 11 of fifty (50) A-weighted decibels, as modeled at the outer wall of an
 12 affected dwelling.

13 (b) The requirement set forth in subsection (a) may be waived
 14 with respect to any one (1) wind power device, subject to the
 15 written consent of the owner of each affected property.

16 Sec. 17. (a) As used in this section, "wind turbine light
 17 mitigation technology" means any technology used in connection
 18 with a wind power device to shield, limit, or otherwise mitigate the
 19 amount, intensity, character, or visibility of light emitted from the
 20 wind power device.

21 (b) Except as otherwise allowed by IC 36-7-4-1109, after
 22 January 1, 2023, and to the extent permissible under federal law or
 23 regulations, a project owner may not commence construction on a
 24 wind power device on property in a unit unless the wind power
 25 device is equipped with a wind turbine light mitigation technology,
 26 subject to any supply chain constraints with respect to the
 27 technology. However, a permit authority shall waive this
 28 requirement if:

29 (1) the Federal Aviation Administration denies the project
 30 owner's application to use a wind turbine light mitigation
 31 technology; or
 32 (2) the project owner determines that the use of a wind
 33 turbine light mitigation technology is not economically
 34 feasible.

35 Sec. 18. This section applies with respect to a wind power device
 36 that is constructed or installed in a unit after June 30, 2021. Except
 37 as otherwise allowed by IC 36-7-4-1109, all damages to waterways,
 38 drainage ditches, field tiles, or other drainage related
 39 infrastructure caused by the construction, installation, or
 40 maintenance of a wind power device must be completely repaired
 41 by the project owner to near original condition so as to not impede
 42 the natural flow of water. All repairs must be completed within a



1 reasonable period of time and:

2 (1) to the satisfaction of the unit; or

3 (2) as stated in an applicable lease or another agreement with
4 the landowner.

5 **Sec. 19. (a) Subject to subsection (b), and except as otherwise**
6 **allowed by IC 36-7-4-1109, a project owner may not install or**
7 **locate a wind power device in a unit unless the project owner**
8 **submits to the permit authority the decommissioning and site**
9 **restoration plan required by IC 36-7-5.3-9(a)(9), and posts a surety**
10 **bond, or an equivalent means of security acceptable to the permit**
11 **authority, including a parent company guarantee or an irrevocable**
12 **letter of credit, in an amount equal to the estimated cost of**
13 **decommissioning the wind power device, as calculated by a third**
14 **party licensed or registered engineer, or by another person with**
15 **suitable experience in the decommissioning of wind power devices,**
16 **as agreed upon by the project owner and the permit authority. The**
17 **required bond or other security shall be posted in increments such**
18 **that the total amount of the bond or security posted is as follows:**

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

28 (A) fifth anniversary; and

29 (B) tenth anniversary;

30 of the start date of the wind power device's full commercial
31 operation, and the total amount of the bond or security posted
32 under this subdivision shall be adjusted as necessary after
33 each reevaluation.

34 (2) An amount equal to fifty percent (50%) of the total
35 estimated decommissioning costs not later than the fifteenth
36 anniversary of the start date of the wind power device's full
37 commercial operation. For purposes of this subdivision, the
38 total estimated decommissioning costs shall be reevaluated by
39 a third party licensed or registered engineer (or by another
40 person with suitable experience in the decommissioning of
41 wind power devices, as agreed upon by the project owner and
42 the permit authority) before the fifteenth anniversary of the



1 start date of the wind power device's full commercial
2 operation, and the total amount of the bond or security posted
3 under this subdivision shall be adjusted as necessary after the
4 reevaluation.

5 (3) An amount equal to one hundred percent (100%) of the
6 total estimated decommissioning costs not later than the
7 twentieth anniversary of the start date of the wind power
8 device's full commercial operation. For purposes of this
9 subdivision, the total estimated decommissioning costs shall
10 be reevaluated by a third party licensed or registered
11 engineer (or by another person with suitable experience in the
12 decommissioning of wind power devices, as agreed upon by
13 the project owner and the permit authority):

- 14 (A) before the twentieth anniversary of the start date of the
- 15 wind power device's full commercial operation; and
- 16 (B) at least once every succeeding five (5) year period after
- 17 the twentieth anniversary of the start date of the wind
- 18 power device's full commercial operation;
- 19 and the total amount of the bond or security posted under this
- 20 subdivision shall be adjusted as necessary after each
- 21 reevaluation.

22 (b) For purposes of this section, the estimated cost of
23 decommissioning a wind power device, as calculated by a licensed
24 or registered professional engineer (or by another person with
25 suitable experience in the decommissioning of wind power devices,
26 as agreed upon by the project owner and the permit authority),
27 shall be the net of any estimated salvage value attributable to the
28 wind power device at the time of decommissioning, unless the unit
29 and the project owner agree to include any such value in the
30 estimated cost.

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

34 **Chapter 42. Default Standards for Commercial Solar Energy**
35 **Systems**

36 **Sec. 1. (a) Except as provided in subsections (b) and (c), the**
37 **standards set forth in this chapter apply to a project owner that,**
38 **after June 30, 2021, files an initial application under IC 36-7-5.3-9**
39 **for a project to install or locate one (1) or more CSE systems in a**
40 **unit that:**

- 41 (1) either:
- 42 (A) has not adopted a commercial solar regulation; or



1 **(B) has in effect on July 1, 2021, a commercial solar**
2 **regulation that includes standards that are more**
3 **restrictive, directly or indirectly, than the standards set**
4 **forth in this chapter; and**
5 **(2) has opted to allow the establishment of a renewable energy**
6 **district within the unit in connection with the project.**
7 **(b) Subject to a unit's planning and zoning powers under**
8 **IC 36-7, this chapter does not apply to a property owner who seeks**
9 **to install a solar energy device (as defined in IC 32-23-4-3) on the**
10 **property owner's premises for the purpose of generating electricity**
11 **to meet or offset all or part of the need for electricity on the**
12 **premises, whether through distributed generation, participation in**
13 **a net metering or feed-in tariff program offered by an electricity**
14 **supplier (as defined in IC 8-1-40-4), or otherwise.**
15 **(c) This chapter does not:**
16 **(1) apply to any proposal, request, or application that:**
17 **(A) concerns the construction, installation, siting,**
18 **modification, operation, or decommissioning of one (1) or**
19 **more CSE systems in a unit;**
20 **(B) is submitted by a project owner to a unit before July 1,**
21 **2021; and**
22 **(C) is pending as of July 1, 2021;**
23 **as set forth in IC 36-7-4-1109;**
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; or**
34 **(3) affect any:**
35 **(A) economic development agreement; or**
36 **(B) other agreement;**
37 **entered before July 1, 2021, with respect to the construction,**
38 **installation, siting, modification, operation, or**
39 **decommissioning of one (1) or more CSE systems in one (1) or**
40 **more units.**
41 **Sec. 2. (a) As used in this chapter, "commercial solar energy**
42 **system", or "CSE system", means a system that:**



- 1 (1) has a nameplate capacity of at least ten (10) megawatts;
2 and
3 (2) captures and converts solar energy into electricity:
4 (A) for the purpose of selling the electricity at wholesale;
5 and
6 (B) for use in locations other than where it is generated.
7 (b) The term includes collection and feeder lines, generation tie
8 lines, substations, ancillary buildings, solar monitoring stations,
9 and accessory equipment or structures.
- 10 Sec. 3. As used in this chapter, "commercial solar regulation"
11 refers to any ordinance or regulation, including any:
12 (1) zoning or land use ordinance or regulation; or
13 (2) general or specific planning ordinance or regulation;
14 that is adopted by a unit and that concerns the construction,
15 installation, siting, modification, operation, or decommissioning of
16 CSE systems in the unit.
- 17 Sec. 4. As used in this chapter, "documented right of site
18 control", with respect to a site within a renewable energy district
19 established under this chapter, means any of the following:
20 (1) Ownership of the site.
21 (2) A leasehold or easement interest in the site.
22 (3) An option to purchase or acquire a leasehold or easement
23 interest in the site.
24 (4) Any other contractual or legal right to possess or occupy
25 the site.
- 26 Sec. 5. As used in this chapter, "dwelling" means any building,
27 structure, or part of a building or structure that is occupied as, or
28 is designed or intended for occupancy as, a residence by one (1) or
29 more families or individuals.
- 30 Sec. 6. As used in this chapter, "interconnection queue" means
31 the study process by which a regional transmission organization
32 (as defined in IC 8-1-38-6) conducts reliability and deliverability
33 studies to determine whether there is available transmission
34 capacity to accommodate the interconnection of a new proposed
35 generating facility or whether network upgrades are needed.
- 36 Sec. 7. (a) As used in this chapter, "nonparticipating property"
37 means a lot or parcel of real property:
38 (1) that is not owned by a project owner; and
39 (2) with respect to which:
40 (A) the project owner does not seek:
41 (i) to install or locate one (1) or more CSE systems or
42 other facilities related to a CSE system project (including



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



1 in IC 8-1-2.3-2).

2 **Sec. 10. As used in this chapter, "renewable energy district", or**
 3 **"RED", means a district:**

4 (1) established in connection with a project, the initial
 5 application for which is filed under IC 36-7-5.4 after June 30,
 6 2021, to install or locate one (1) or more:

7 (A) CSE systems;

8 (B) wind power devices (as defined in IC 8-1-41-10); or

9 (C) both;

10 in a unit described in section 1(a)(1) of this chapter;

11 (2) the area of which consists of:

12 (A) the footprint of the project, as identified by the project
 13 owner in the project owner's application under
 14 IC 36-7-5.4; plus

15 (B) an area that extends at least one and one-half (1.5)
 16 miles from the boundary lines of the footprint in all
 17 directions; and

18 (3) with respect to which the project owner has a documented
 19 right of site control, as demonstrated in the project owner's
 20 application under IC 36-7-5.4-9, to the extent required to
 21 enable the project to enter the interconnection queue of the
 22 Midcontinent Independent System Operator (MISO) or
 23 another appropriate regional transmission organization.

24 **Sec. 11. (a) As used in this chapter, "unit" refers to:**

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

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

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

31 (C) entirely within two (2) or more municipalities within
 32 the county; or

33 (2) a municipality, if:

34 (A) a project owner, as part of a single CSE system project
 35 or development, seeks to locate one (1) or more CSE
 36 systems entirely within the boundaries of the municipality;
 37 and

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

39 (b) The term refers to:

40 (1) each county described in subsection (a)(1) in which a
 41 project owner seeks to locate one (1) or more CSE systems, if
 42 the project owner seeks to locate CSE systems in more than



1 one (1) county as part of a single CSE system project or
2 development; and

3 (2) each municipality described in subsection (a)(2) in which
4 a project owner seeks to locate one (1) or more CSE systems,
5 if the project owner seeks to locate CSE systems in two (2) or
6 more municipalities, each of which is located in a different
7 county.

8 **Sec. 12. (a) The following apply if a permit authority for a unit**
9 **described in section 1(a)(1) of this chapter receives after June 30,**
10 **2021, a proposal from a project owner for a project to install or**
11 **locate one (1) or more CSE systems in the unit:**

12 (1) A unit described in section 1(a)(1)(B) of this chapter that
13 has in effect on July 1, 2021, a commercial solar regulation
14 that includes standards that are more restrictive, directly or
15 indirectly, than the standards set forth in sections 13 through
16 23 of this chapter may:

17 (A) continue to apply and enforce the unit's existing
18 commercial regulation with respect to the proposed
19 project; or

20 (B) allow within the unit the establishment of a renewable
21 energy district in which the proposed project will be
22 located.

23 (2) A unit described in section 1(a)(1)(A) of this chapter that
24 has not adopted a commercial solar regulation may:

25 (A) restrict, or impose conditions or limitations on, the
26 construction, installation, siting, modification, operation,
27 or decommissioning of one (1) or more CSE systems in the
28 unit if the unit first adopts a commercial solar regulation
29 that includes standards that are not more restrictive,
30 directly or indirectly, than the standards set forth in
31 sections 13 through 23 of this chapter; or

32 (B) allow within the unit the establishment of a renewable
33 energy district in which the proposed project will be
34 located.

35 (b) This subsection applies with respect to any proposal, the
36 initial application for which is filed with a unit after June 30, 2021,
37 by a project owner for a project to install or locate one (1) or more
38 CSE systems in a unit. A unit that:

39 (1) is described in section 1(a)(1)(B) of this chapter and that
40 allows within the unit the establishment of a RED in which the
41 proposed project will be located, as described in subsection
42 (a)(1)(B);



1 **(2) is described in section 1(a)(1)(A) of this chapter and that:**

2 **(A) adopts a commercial solar regulation that includes**
 3 **standards that are not more restrictive, directly or**
 4 **indirectly, than the standards set forth in this chapter; or**

5 **(B) allows within the unit the establishment of a RED in**
 6 **which the proposed project will be located, as described in**
 7 **subsection (a)(2)(B); or**

8 **(3) has adopted before July 1, 2021, a commercial solar**
 9 **regulation that includes standards that are not more**
 10 **restrictive, directly or indirectly, than the standards set forth**
 11 **in this chapter;**

12 **may impose a one (1) time construction fee for each CSE system**
 13 **included in a project application to which this subsection applies.**
 14 **A construction fee imposed under this subsection is payable by the**
 15 **project owner upon the commencement of construction of each**
 16 **CSE system and may not exceed one thousand dollars (\$1,000) per**
 17 **megawatt of installed capacity. However, a project owner is**
 18 **exempt from any construction fee imposed by a unit under this**
 19 **subsection if, at the time of application, the project owner**
 20 **demonstrates that the project owner has executed before July 1,**
 21 **2021, a commercial offtake agreement with respect to the project.**

22 **(c) A unit that imposes a construction fee under subsection (b)**
 23 **may allocate a percentage, to be determined by the unit, of the fees**
 24 **collected:**

25 **(1) for use within the project's footprint, or for the benefit of**
 26 **residents and businesses within the project's footprint, in the**
 27 **case of a unit described in subsection (b)(2)(A) or (b)(3); or**

28 **(2) for use within the RED, or for the benefit of residents and**
 29 **businesses within the RED, in the case of a unit that allows**
 30 **within the unit the establishment of a renewable energy**
 31 **district in which the proposed project will be located, in the**
 32 **case of a unit described in subsection (b)(1) or (b)(2)(B).**

33 **In addition, a unit described in subdivision (1) or (2) may allocate**
 34 **a percentage, to be determined by the unit, of the property tax**
 35 **revenues or income tax revenues, or both, that are generated by the**
 36 **project, for use within the project footprint or within the RED, as**
 37 **applicable, or for the benefit of residents and businesses within the**
 38 **project footprint or within the RED, as applicable.**

39 **(d) Except as provided in:**

40 **(1) subsection (a);**

41 **(2) IC 36-1-3-8.8; and**

42 **(3) IC 36-7-5.4;**



1 this chapter does not otherwise affect a unit's planning and zoning
 2 powers under IC 36-7 with respect to the installation or siting of
 3 one (1) or more CSE systems in the unit.

4 (e) A permit authority for a unit described in section 1(a)(1) of
 5 this chapter is responsible for enforcing compliance with the
 6 following:

7 (1) Within the boundaries of a RED established under
 8 subsection (a), the standards set forth in this chapter.

9 (2) IC 36-7-5.4.

10 (f) A unit may:

11 (1) adopt and enforce a commercial solar regulation that
 12 includes standards that:

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

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

18 (2) waive or make less restrictive any standard set forth in
 19 this chapter

20 with respect to any particular:

21 (A) CSE system;

22 (B) project described in section 10(1) of this chapter; or

23 (C) RED; or

24 (3) waive or make less restrictive any standard set forth in a
 25 commercial solar regulation adopted by the unit with respect
 26 to any particular:

27 (A) CSE system; or

28 (B) project described in section 10(1) of this chapter.

29 (g) This subsection applies to any unit in which a RED is
 30 established in connection with a project described in section 10(1)
 31 of this chapter. For purposes of any standard set forth in this
 32 chapter that prescribes a minimum setback distance or another
 33 minimum distance from a CSE system to any:

34 (1) right-of-way;

35 (2) property line;

36 (3) utility line;

37 (4) dwelling; or

38 (5) other line, facility, object, or structure;

39 the prescribed minimum distance, as set forth in this chapter, shall
 40 apply with respect to each wind power device located within the
 41 RED, regardless of whether the right-of-way, property line, utility
 42 line, dwelling, or other line, facility, object, or structure from



1 which the distance must be established is itself located within the
2 RED.

3 Sec. 13. (a) Subject to subsection (e), and except as otherwise
4 allowed by IC 36-7-4-1109, a project owner may not install or
5 locate a CSE system on property in a unit unless the distance,
6 measured as a straight line, from the nearest outer edge of the CSE
7 system to:

8 (1) the nearest edge of the right-of-way for any:

9 (A) federal interstate highway, federal highway, state
10 highway, or county highway is at least forty (40) feet;

11 (B) collector road is at least thirty (30) feet; or

12 (C) local road is at least ten (10) feet; or

13 (2) the property line of any nonparticipating property is at
14 least fifty (50) feet.

15 (b) Subject to subsection (e), and except as otherwise allowed by
16 IC 36-7-4-1109, a project owner may not install or locate a CSE
17 system on property in a unit unless the distance, measured as a
18 straight line, from the nearest outer edge of the CSE system to the
19 nearest point on the outer wall of a dwelling located on a
20 nonparticipating property is at least one hundred fifty (150) feet.

21 (c) Subject to subsection (e), and except as otherwise allowed by
22 IC 36-7-4-1109, if a project owner installs a CSE system within a
23 distance of two hundred fifty (250) feet, measured as a straight
24 line, from the nearest outer edge of the CSE system to the nearest
25 point on the outer wall of a dwelling located on a nonparticipating
26 property, the project owner shall install a landscape buffer in the
27 area between the nearest outer edge of the CSE system and the
28 outer wall of the dwelling located on the nonparticipating
29 property:

30 (1) in a location; and

31 (2) constructed from such materials;

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

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

42 (e) The:



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

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

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

8 Sec. 14. Except as otherwise allowed by IC 36-7-4-1109, if a
9 project owner installs a CSE system in a unit, the project owner
10 shall plant, establish, and maintain for the life of the CSE system
11 perennial vegetated ground cover on the ground around and under
12 solar panels, and in project site buffer areas. The use of pollinator
13 seed mixes in the planting of ground cover required by this section
14 is encouraged. A unit or permit authority may require a project
15 owner to prepare for a project site a vegetation plan that:

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

17 (2) provides for the planting of noninvasive species and the
18 use of native or naturalized species if the planting and use of
19 noninvasive and native or naturalized species are:

20 (A) appropriate to the region;

21 (B) economically feasible; and

22 (C) agreed to by the landowner;

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

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

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

32 Sec. 16. Except as otherwise allowed by IC 36-7-4-1109, if a
33 project owner installs a CSE system in a unit, all cables of up to
34 thirty-four and one-half (34.5) kilovolts that are located between
35 inverter locations and project substations shall be located and
36 maintained underground. Other solar infrastructure, such as
37 module-to-module collection cables, transmission lines, substations,
38 junction boxes, and other typical aboveground infrastructure may
39 be located and maintained above ground. Buried cables shall be at
40 a depth of at least thirty-six (36) inches below grade or, if
41 necessitated by onsite conditions, at a greater depth. Cables and
42 lines located outside of the CSE system project site may:



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

8 Sec. 17. Except as otherwise allowed by IC 36-7-4-1109, a CSE
 9 system installed by a project owner must be designed and
 10 constructed to:

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

13 Sec. 18. Except as otherwise allowed by IC 36-7-4-1109, a CSE
 14 system installed in a unit must be installed in a manner so as to
 15 minimize and mitigate impacts to:

- 16 (1) television signals;
 17 (2) microwave signals;
 18 (3) agricultural global positioning systems;
 19 (4) military defense radar;
 20 (5) radio reception; or
 21 (6) weather and doppler radar.

22 Sec. 19. (a) Subject to subsection (b), and except as otherwise
 23 allowed by IC 36-7-4-1109, a project owner may not install or
 24 locate a CSE system in a unit unless the project owner
 25 demonstrates to the permit authority that the CSE system will
 26 operate in a manner such that the sound attributable to the CSE
 27 system will not exceed an hourly average sound level of fifty (50)
 28 A-weighted decibels, as modeled at the outer wall of a dwelling
 29 located on an adjacent nonparticipating property.

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

33 Sec. 20. This section applies with respect to a CSE system that
 34 is constructed or installed in a unit after June 30, 2021. Except as
 35 otherwise allowed by IC 36-7-4-1109, all damages to waterways,
 36 drainage ditches, field tiles, or other drainage related
 37 infrastructure caused by the construction, installation, or
 38 maintenance of a CSE system must be completely repaired by the
 39 project owner to near original condition so as to not impede the
 40 natural flow of water. All repairs must be completed within a
 41 reasonable period of time and:

- 42 (1) to the satisfaction of the unit; or



- 1 (2) as stated in an applicable lease or another agreement with
2 the landowner.
- 3 **Sec. 21. (a) Subject to subsection (b), and except as otherwise**
4 **allowed by IC 36-7-4-1109, a project owner may not install or**
5 **locate a CSE system in a unit unless the project owner submits to**
6 **the permit authority the decommissioning and site restoration plan**
7 **required by IC 36-7-5.4-9, and posts a surety bond, or an**
8 **equivalent means of security acceptable to the permit authority,**
9 **including a parent company guarantee or an irrevocable letter of**
10 **credit, in an amount equal to the estimated cost of**
11 **decommissioning the CSE system, as calculated by a third party**
12 **licensed or registered engineer or by another person with suitable**
13 **experience in the decommissioning of CSE systems, as agreed upon**
14 **by the project owner and the permit authority. The required bond**
15 **or other security shall be posted in increments such that the total**
16 **amount of the bond or security posted is as follows:**
- 17 (1) An amount equal to twenty-five percent (25%) of the total
18 estimated decommissioning costs not later than the start date
19 of the CSE system's full commercial operation.
- 20 (2) An amount equal to fifty percent (50%) of the total
21 estimated decommissioning costs not later than the fifth
22 anniversary of the start date of the CSE system's full
23 commercial operation.
- 24 (3) An amount equal to one hundred percent (100%) of the
25 total estimated decommissioning costs not later than the tenth
26 anniversary of the start date of the CSE system's full
27 commercial operation. For purposes of this subdivision, the
28 total estimated decommissioning costs shall be reevaluated by
29 a third party licensed or registered engineer (or by another
30 person with suitable experience in the decommissioning of
31 CSE systems, as agreed upon by the project owner and the
32 permit authority):
- 33 (A) before the tenth anniversary of the start date of the
34 CSE system's full commercial operation; and
- 35 (B) at least once every succeeding five (5) year period after
36 the tenth anniversary of the start date of the CSE system's
37 full commercial operation;
- 38 and the total amount of the bond or security posted under this
39 subdivision shall be adjusted as necessary after each
40 reevaluation.
- 41 (b) For purposes of this section, the estimated cost of
42 decommissioning a CSE system, as calculated by a licensed or



1 registered professional engineer (or by another person with
2 suitable experience in the decommissioning of CSE systems, as
3 agreed upon by the project owner and the permit authority), shall
4 be the net of any estimated salvage value attributable to the CSE
5 system at the time of decommissioning, unless the unit and the
6 project owner agree to include any such value in the estimated cost.

7 (c) A project owner shall provide to the permit authority
8 written notice of the project owner's intent to decommission a CSE
9 system not later than sixty (60) days before the discontinuation of
10 commercial operation by the CSE system. Except as provided in
11 subsection (e), after the discontinuation of commercial operation
12 by the CSE system, and as part of the decommissioning process:

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

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

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

24 (1) enter the project site;

25 (2) remove the CSE system project assets;

26 (3) sell any assets removed; and

27 (4) remediate the site;

28 and may initiate proceedings to recover any costs incurred.

29 (e) Project assets may remain in place after decommissioning is
30 complete if:

31 (1) the location and condition of the assets are in conformance
32 with local regulations at the time of decommissioning; and

33 (2) the written consent of the landowner is obtained.

34 Sec. 22. (a) If a CSE system installed in a unit does not generate
35 electricity for eighteen (18) consecutive months:

36 (1) the CSE system is considered abandoned as of the date
37 that is five hundred forty (540) days after the date on which
38 the CSE system last generated electricity; and

39 (2) all CSE system project assets shall be removed in
40 accordance with section 17(c) of this chapter not later than
41 one (1) year after the date of abandonment specified in
42 subdivision (1).



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

- 6 **(1) enter the project site;**
 7 **(2) remove the CSE system project assets;**
 8 **(3) sell any assets removed; and**
 9 **(4) remediate the site;**

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

11 **Sec. 23. (a) As used in this section, "force majeure event"**
 12 **includes the following:**

- 13 **(1) Fire, flood, tornado, or other natural disasters or acts of**
 14 **God.**
 15 **(2) War, civil strife, a terrorist attack, or other similar acts of**
 16 **violence.**
 17 **(3) Other unforeseen events or events over which a project**
 18 **owner has no control.**

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

- 21 **(1) as soon as practicable after the occurrence of the force**
 22 **majeure event, provide notice to the permit authority of the**
 23 **event and of the resulting cessation of generating operations;**
 24 **and**
 25 **(2) demonstrate to the permit authority that the CSE system**
 26 **will be substantially operational and generating electricity not**
 27 **later than twelve (12) months after the occurrence of the force**
 28 **majeure event.**

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

- 32 **(1) the CSE system is considered abandoned as of the date**
 33 **that is three hundred sixty-five (365) days after the date on**
 34 **which the CSE system last generated electricity; and**
 35 **(2) all CSE system project assets shall be removed in**
 36 **accordance with section 17(c) of this chapter not later than**
 37 **one (1) year after the date of abandonment specified in**
 38 **subdivision (1).**

39 **(d) In the case of presumed abandonment, as described in**
 40 **subsection (c), if the project owner fails to remove the CSE system**
 41 **project assets not later than one (1) year after the date of**
 42 **abandonment, as required by subsection (c)(2), the permit**



1 **authority may engage qualified contractors to:**

- 2 **(1) enter the project site;**
 3 **(2) remove the CSE system project assets;**
 4 **(3) sell any assets removed; and**
 5 **(4) remediate the site;**

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

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

- 11 (1) The power to condition or limit its civil liability, except as
 12 expressly granted by statute.
 13 (2) The power to prescribe the law governing civil actions
 14 between private persons.
 15 (3) The power to impose duties on another political subdivision,
 16 except as expressly granted by statute.
 17 (4) The power to impose a tax, except as expressly granted by
 18 statute.
 19 (5) The power to impose a license fee greater than that reasonably
 20 related to the administrative cost of exercising a regulatory power.
 21 (6) The power to impose a service charge or user fee greater than
 22 that reasonably related to reasonable and just rates and charges
 23 for services.
 24 (7) The power to regulate conduct that is regulated by a state
 25 agency, except as expressly granted by statute.
 26 (8) The power to prescribe a penalty for conduct constituting a
 27 crime or infraction under statute.
 28 (9) The power to prescribe a penalty of imprisonment for an
 29 ordinance violation.
 30 (10) The power to prescribe a penalty of a fine as follows:
 31 (A) More than ten thousand dollars (\$10,000) for the violation
 32 of an ordinance or a regulation concerning air emissions
 33 adopted by a county that has received approval to establish an
 34 air permit program under IC 13-17-12-6.
 35 (B) For a violation of any other ordinance:
 36 (i) more than two thousand five hundred dollars (\$2,500) for
 37 a first violation of the ordinance; and
 38 (ii) except as provided in subsection (c), more than seven
 39 thousand five hundred dollars (\$7,500) for a second or
 40 subsequent violation of the ordinance.
 41 (11) The power to invest money, except as expressly granted by
 42 statute.



- 1 (12) The power to order or conduct an election, except as
- 2 expressly granted by statute.
- 3 (13) The power to adopt or enforce an ordinance described in
- 4 section 8.5 of this chapter.
- 5 (14) The power to take any action prohibited by section 8.6 of this
- 6 chapter.
- 7 **(15) The power to directly or indirectly restrict, or impose**
- 8 **conditions or limitations on, the construction, installation,**
- 9 **siting, modification, operation, or decommissioning of one (1)**
- 10 **or more wind power devices in the unit, except as allowed**
- 11 **under section 8.7 of this chapter.**
- 12 **(16) The power to directly or indirectly restrict, or impose**
- 13 **conditions or limitations on, the construction, installation,**
- 14 **siting, modification, operation, or decommissioning of one (1)**
- 15 **or more commercial solar energy systems in the unit, except**
- 16 **as allowed under section 8.8 of this chapter.**
- 17 ~~(15)~~ **(17)** The power to dissolve a political subdivision, except:
- 18 (A) as expressly granted by statute; or
- 19 (B) if IC 36-1-8-17.7 applies to the political subdivision, in
- 20 accordance with the procedure set forth in IC 36-1-8-17.7.
- 21 ~~(16)~~ **(18)** After June 30, 2019, the power to enact an ordinance
- 22 requiring a solid waste hauler or a person who operates a vehicle
- 23 in which recyclable material is transported for recycling to collect
- 24 fees authorized by IC 13-21 and remit the fees to:
- 25 (A) a unit; or
- 26 (B) the board of a solid waste management district established
- 27 under IC 13-21.
- 28 (b) A township does not have the following, except as expressly
- 29 granted by statute:
- 30 (1) The power to require a license or impose a license fee.
- 31 (2) The power to impose a service charge or user fee.
- 32 (3) The power to prescribe a penalty.
- 33 (c) Subsection (a)(10)(B)(ii) does not apply to the violation of an
- 34 ordinance that regulates traffic or parking.
- 35 SECTION 4. IC 36-1-3-8.7 IS ADDED TO THE INDIANA CODE
- 36 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
- 37 UPON PASSAGE]: **Sec. 8.7. (a) Subject to a unit's planning and**
- 38 **zoning powers under IC 36-7, this section does not apply to a**
- 39 **property owner that seeks to install a wind power device on the**
- 40 **property owner's premises for the purpose of generating electricity**
- 41 **to meet or offset all or part of the need for electricity on the**
- 42 **premises, whether through distributed generation, participation in**



1 a net metering or feed-in tariff program offered by an electricity
2 supplier (as defined in IC 8-1-40-4), or otherwise.

3 (b) As used in this section, "permit authority", with respect to
4 a unit, has the meaning set forth in IC 8-1-41-6.

5 (c) As used in this section, "project owner" has the meaning set
6 forth in IC 8-1-41-7.

7 (d) As used in this section, "renewable energy district", or
8 "RED", has the meaning set forth in IC 8-1-41-8.

9 (e) As used in this section, "unit" has the meaning set forth in
10 IC 8-1-41-9.

11 (f) As used in this section, "wind power device" means a device,
12 including a windmill or a wind turbine, that is designed to use the
13 kinetic energy of moving air to provide mechanical energy or to
14 produce electricity.

15 (g) As used in this section, "wind power regulation" refers to
16 any ordinance or regulation, including any:

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

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

19 that is adopted by a unit and that concerns the construction,
20 installation, siting, modification, operation, or decommissioning of
21 wind power devices in the unit.

22 (h) Except as provided in IC 8-1-41-1(c), after June 30, 2021, a
23 permit authority may not, directly or indirectly, restrict, or impose
24 conditions or limitations on, the construction, installation, siting,
25 modification, operation, or decommissioning of one (1) or more
26 wind power devices in the unit unless the unit has in effect a wind
27 power regulation. The following apply to a wind power regulation
28 that is adopted after June 30, 2021:

29 (1) The wind power regulation must be approved by the unit's
30 plan commission.

31 (2) Any procedures set forth in the wind power regulation
32 with respect to the permitting or approval process for the
33 siting or installation of wind power devices in the unit must
34 comply with IC 36-7-5.3.

35 (3) Any standards included in the wind power regulation must
36 not be more restrictive, directly or indirectly, than the default
37 standards set forth in IC 8-1-41.

38 (i) This subsection applies to a unit that does not have a wind
39 power regulation in effect in the unit after June 30, 2021. Until
40 such time as the legislative body of the unit may elect to adopt a
41 wind power regulation that complies with subsection (h), the
42 procedures set forth in IC 36-7-5.3 apply with respect to any



1 proposal, the initial application for which is filed with the unit after
 2 June 30, 2021, by a project owner to install or locate one (1) or
 3 more wind power devices in the unit. If the unit approves the
 4 proposed project, the unit shall allow within the unit the
 5 establishment of a renewable energy district in which the project
 6 will be located. The standards set forth in IC 8-1-41 apply with
 7 respect to each RED established in the unit.

8 (j) This subsection applies to a unit that has a wind power
 9 regulation in effect in the unit on July 1, 2021. A unit described in
 10 this subsection may:

11 (1) continue to apply and enforce the unit's existing wind
 12 power regulation with respect to any proposed or existing
 13 project; or

14 (2) allow within the unit the establishment of a renewable
 15 energy district in which a proposed project will be located, in
 16 the case of any proposal, the initial application for which is
 17 filed with the unit after June 30, 2021, by a project owner to
 18 install or locate one (1) or more wind power devices in the
 19 unit. The standards set forth in IC 8-1-41 and the procedures
 20 set forth in IC 36-7-5.3 apply with respect to each RED
 21 established in the unit under this subdivision.

22 (k) After June 30, 2021, a unit may not amend:

23 (1) a wind power regulation; or

24 (2) any other regulation of the unit, regardless of the subject
 25 matter of the regulation;

26 to address any matter concerning the construction, installation,
 27 siting, modification, operation, or decommissioning of wind power
 28 devices in the unit unless any existing provisions in the regulation
 29 are amended in such way that, as amended, they are not more
 30 restrictive than they were before their amendment, and any new
 31 provisions that are added by the amendment comply with
 32 subsection (h)(2) and (h)(3), regardless of when the wind power
 33 regulation or other regulation was originally adopted. The unit's
 34 plan commission must approve an amendment described in this
 35 subsection.

36 SECTION 5. IC 36-1-3-8.8 IS ADDED TO THE INDIANA CODE
 37 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 38 UPON PASSAGE]: Sec. 8.8. (a) Subject to a unit's planning and
 39 zoning powers under IC 36-7, this section does not apply to a
 40 property owner that seeks to install a solar energy device (as
 41 defined in IC 32-23-4-3) on the property owner's premises for the
 42 purpose of generating electricity to meet or offset all or part of the



1 need for electricity on the premises, whether through distributed
 2 generation, participation in a net metering or feed-in tariff
 3 program offered by an electricity supplier (as defined in
 4 IC 8-1-40-4), or otherwise.

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

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

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

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

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

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

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

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

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

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

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

25 (e) As used in this section, "project owner" has the meaning set
 26 forth in IC 8-1-42-9.

27 (f) As used in this section, "renewable energy district", or
 28 "RED", has the meaning set forth in IC 8-1-42-10.

29 (g) As used in this section, "unit" has the meaning set forth in
 30 IC 8-1-42-11.

31 (h) Except as provided in IC 8-1-42-1(c), after June 30, 2021, a
 32 permit authority may not, directly or indirectly, restrict, or impose
 33 conditions or limitations on, the construction, installation, siting,
 34 modification, operation, or decommissioning of one (1) or more
 35 CSE systems in the unit unless the unit has in effect a commercial
 36 solar regulation. The following apply to a commercial solar
 37 regulation that is adopted after June 30, 2021:

38 (1) The commercial solar regulation must be approved by the
 39 unit's plan commission.

40 (2) Any procedures set forth in the commercial solar
 41 regulation with respect to the permitting or approval process
 42 for the siting or installation of CSE systems in the unit must



1 **comply with IC 36-7-5.4.**

2 **(3) Any standards included in the commercial solar regulation**
 3 **must not be more restrictive, directly or indirectly, than the**
 4 **default standards set forth in IC 8-1-42.**

5 **(i) This subsection applies to a unit that does not have a**
 6 **commercial solar regulation in effect in the unit after June 30,**
 7 **2021. Until such time as the legislative body of the unit may elect**
 8 **to adopt a commercial solar regulation that complies with**
 9 **subsection (h), the procedures set forth in IC 36-7-5.4 apply with**
 10 **respect to any proposal, the initial application for which is filed**
 11 **with the unit after June 30, 2021, by a project owner to install or**
 12 **locate one (1) or more CSE systems in the unit. If the unit approves**
 13 **the proposed project, the unit shall allow within the unit the**
 14 **establishment of a renewable energy district in which the project**
 15 **will be located. The standards set forth in IC 8-1-42 apply with**
 16 **respect to each RED established in the unit.**

17 **(j) This subsection applies to a unit that has a commercial solar**
 18 **regulation in effect in the unit on July 1, 2021. A unit described in**
 19 **this subsection may:**

20 **(1) continue to apply and enforce the unit's existing**
 21 **commercial solar regulation with respect to any proposed or**
 22 **existing project; or**

23 **(2) allow within the unit the establishment of a renewable**
 24 **energy district in which a proposed project will be located, in**
 25 **the case of any proposal, the initial application for which is**
 26 **filed with the unit after June 30, 2021, by a project owner to**
 27 **install or locate one (1) or more CSE systems in the unit. The**
 28 **standards set forth in IC 8-1-42 and the procedures set forth**
 29 **in IC 36-7-5.4 apply with respect to each RED established in**
 30 **the unit under this subdivision.**

31 **(k) After June 30, 2021, a unit may not amend:**

32 **(1) a commercial solar regulation; or**

33 **(2) any other regulation of the unit, regardless of the subject**
 34 **matter of the regulation;**

35 **to address any matter concerning the construction, installation,**
 36 **siting, modification, operation, or decommissioning of CSE systems**
 37 **in the unit unless any existing provisions in the regulation are**
 38 **amended in such way that, as amended, they are not more**
 39 **restrictive than they were before their amendment, and any new**
 40 **provisions that are added by the amendment comply with**
 41 **subsection (h)(2) and (h)(3), regardless of when the commercial**
 42 **solar regulation or other regulation was originally adopted. The**



1 **unit's plan commission must approve an amendment described in**
 2 **this subsection.**

3 SECTION 6. IC 36-7-5.3 IS ADDED TO THE INDIANA CODE
 4 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2021]:

6 **Chapter 5.3. Siting of Wind Power Devices in a Unit**

7 **Sec. 1. (a) Except as provided in subsections (c) and (d), this**
 8 **chapter applies to the following:**

9 (1) **The exercising by any unit of zoning, land use, planning, or**
 10 **permitting authority as authorized by this article, or by any**
 11 **other law, with respect to the construction, installation, siting,**
 12 **modification, operation, or decommissioning of one (1) or**
 13 **more wind power devices within the unit after June 30, 2021.**

14 (2) **The consideration by any unit, whether under a regulation**
 15 **of the unit or otherwise, of a proposal for the construction,**
 16 **installation, siting, modification, operation, or**
 17 **decommissioning of one (1) or more wind power devices in the**
 18 **unit after June 30, 2021.**

19 **(b) This chapter applies to a situation described in subsection (a)**
 20 **in a unit that:**

21 (1) **does not have a wind power regulation in effect in the unit**
 22 **after June 30, 2021; or**

23 (2) **does have a wind power regulation in effect in the unit**
 24 **after June 30, 2021, and has opted to allow the establishment**
 25 **of a renewable energy district within the unit in connection**
 26 **with a wind power project.**

27 **(c) Subject to a unit's planning and zoning powers under this**
 28 **article, this chapter does not apply to a property owner that seeks**
 29 **to install a wind power device on the property owner's premises for**
 30 **the purpose of generating electricity to meet or offset all or part of**
 31 **the need for electricity on the premises, whether through**
 32 **distributed generation, participation in a net metering or feed-in**
 33 **tariff program offered by an electricity supplier (as defined in**
 34 **IC 8-1-40-4), or otherwise.**

35 **(d) This chapter does not:**

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

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

40 (B) **is submitted by a project owner to a unit before July 1,**
 41 **2021; and**

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



- 1 as set forth in IC 36-7-4-1109;
 2 (2) affect the:
 3 (A) construction;
 4 (B) installation;
 5 (C) siting;
 6 (D) modification;
 7 (E) operation; or
 8 (F) decommissioning;
 9 of one (1) or more wind power devices in a unit that before
 10 July 1, 2021, has approved such construction, installation,
 11 siting, modification, operation, or decommissioning; or
 12 (3) affect any:
 13 (A) economic development agreement; or
 14 (B) other agreement;
 15 entered before July 1, 2021, with respect to the construction,
 16 installation, siting, modification, operation, or
 17 decommissioning of one (1) or more wind power devices in
 18 one (1) or more units.
- 19 **Sec. 2. (a) As used in this chapter, "permit authority" means:**
 20 (1) a unit; or
 21 (2) a board, a commission, or any other governing body of a
 22 unit;
 23 that makes legislative or administrative decisions concerning the
 24 construction, installation, siting, modification, operation, or
 25 decommissioning of wind power devices in the unit.
- 26 (b) The term does not include:
 27 (1) the state or any of its agencies, departments, boards,
 28 commissions, authorities, or instrumentalities; or
 29 (2) a court or other judicial body that reviews decisions or
 30 rulings made by a permit authority.
- 31 **Sec. 3. (a) As used in this chapter, "project owner" means a**
 32 **person that:**
 33 (1) will own one (1) or more wind power devices proposed to
 34 be located in a unit; or
 35 (2) owns one (1) or more wind power devices located in a unit.
- 36 (b) The term includes an agent or a representative of a person
 37 described in subsection (a).
- 38 (c) The term does not include an electricity supplier (as defined
 39 in IC 8-1-2.3-2).
- 40 **Sec. 4. As used in this chapter, "renewable energy district", or**
 41 **"RED", has the meaning set forth in IC 8-1-41-8.**
- 42 **Sec. 5. (a) As used in this chapter, "unit" refers to:**



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



1 chapter after June 30, 2021, as provided in IC 36-1-3-8.7(i).

2 (c) Except as provided in:

- 3 (1) subsection (b);
 4 (2) IC 36-1-3-8.7; and
 5 (3) IC 8-1-41;

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

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

- 11 (1) this chapter; and
 12 (2) the default standards set forth in IC 8-1-41.

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

- 21 (1) A physical and technical description of all wind power
 22 devices proposed to be installed or located in the unit.
 23 (2) A physical and technical description of all sites in the unit
 24 on which one (1) or more wind power devices are sought to be
 25 installed or located, including maps showing:
 26 (A) the location of the sites; and
 27 (B) the boundaries of the renewable energy district to be
 28 established in connection with the project.

29 In addition to showing the boundaries of the RED, the project
 30 owner must provide evidence that the project owner has a
 31 documented right of site control (as defined in IC 8-1-41-2)
 32 with respect to the RED, to the extent required to enable the
 33 project to enter the interconnection queue of the Midcontinent
 34 Independent System Operator (MISO) or another
 35 appropriate regional transmission organization.

36 (3) The project owner's anticipated timeline and process for
 37 constructing and installing all wind power devices proposed
 38 in the application.

39 (4) Information regarding the sound:

- 40 (A) expressed as an hourly average sound level or by any
 41 other measure reasonably required by the permit
 42 authority; and



- 1 **(B) as modeled at the outer wall of an affected dwelling;**
 2 **anticipated to be attributable to the operation of each wind**
 3 **power device included in the application.**
 4 **(5) Information regarding the amount of anticipated shadow**
 5 **flicker, expressed as hours per year under planned operating**
 6 **conditions or by any other measure reasonably required by**
 7 **the permit authority, expected to be attributable to the**
 8 **operation of each wind power device included in the**
 9 **application.**
 10 **(6) Information regarding the status of all permits required**
 11 **by the Federal Aviation Administration with respect to each**
 12 **wind power device included in the application.**
 13 **(7) Information regarding the planned use and modification**
 14 **of any highways, streets, and roads in the unit during the**
 15 **construction and installation of all wind power devices**
 16 **included in the application, including a process for:**
 17 **(A) assessing road damage caused by activities involved in**
 18 **such construction and installation; and**
 19 **(B) conducting road repairs at the project owner's expense.**
 20 **(8) A copy of all emergency response plans applicable to the**
 21 **construction, installation, siting, modification, operation, and**
 22 **decommissioning of all wind power devices included in the**
 23 **application, including a process for sharing the plans with,**
 24 **and providing safety training to, all potential first responders.**
 25 **(9) A decommissioning and site restoration plan for each wind**
 26 **power device included in the application, including both a**
 27 **timeline for decommissioning and a timeline for posting any**
 28 **required:**
 29 **(A) surety bond;**
 30 **(B) parent company guarantee;**
 31 **(C) irrevocable letter of credit; or**
 32 **(D) other equivalent means of security or financial**
 33 **assurance acceptable to the permit authority;**
 34 **in an amount reflecting the estimated cost of decommissioning**
 35 **the wind power device.**
 36 **(10) A copy of all representative notices to be issued by the**
 37 **project owner with respect to the construction, installation,**
 38 **siting, modification, operation, and decommissioning of all**
 39 **wind power devices included in the application, including any**
 40 **preconstruction and postconstruction activities.**
 41 **(11) Any other information reasonably necessary to**
 42 **understand the construction, installation, siting, modification,**



1 operation, and decommissioning of all wind power devices
2 included in the application.

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

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

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

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



1 subsection (c), to the extent ascertainable. A permit authority may
 2 not impose a limit on the number of times a project owner may
 3 supplement an application under this subsection.

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

16 (f) After:

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

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

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

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

37 (b) A permit authority may not:

38 (1) unreasonably deny an application or a supplemented
 39 application under this chapter;

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



- 1 (A) property value guarantees;
- 2 (B) onerous road upgrades; or
- 3 (C) other requirements that are intended to prevent or
- 4 impede (or would have the effect of preventing or
- 5 impeding) the construction, installation, siting,
- 6 modification, operation, or decommissioning of wind
- 7 power devices in the unit; or
- 8 (3) after approving an application or a supplemented
- 9 application, impose unreasonable requirements upon a
- 10 project owner, including any of the requirements set forth in
- 11 subdivision (2), at any point during the project owner's
- 12 construction, installation, siting, modification, operation, or
- 13 decommissioning of wind power devices in the unit.

14 **Sec. 11. (a) Not later than five (5) years after the date a wind**
 15 **power project is approved under section 10 of this chapter, the**
 16 **project owner must:**

- 17 (1) submit all necessary applications for required construction
- 18 permits and other local permits; and
- 19 (2) complete the development process;

20 **for the project.**

21 (b) A permit authority may require a project owner that fails to
 22 comply with the time frame set forth in subsection (a) to submit a
 23 new application under this chapter with respect to the project.

24 **Sec. 12. After a permit authority issues a decision under section**
 25 **10 of this chapter with respect to the construction, installation,**
 26 **siting, modification, operation, or decommissioning of one (1) or**
 27 **more wind power devices in the unit:**

- 28 (1) a project owner;
- 29 (2) political subdivisions in which, or adjacent to where, the
- 30 project will be located; or
- 31 (3) owners of property on which, or adjacent to where, the
- 32 project will be located;

33 **who is aggrieved by the decision may file a complaint for**
 34 **appropriate relief in the circuit or superior court of a county**
 35 **having jurisdiction. A complaint under this section must be filed**
 36 **not later than thirty (30) days after the date of the permit**
 37 **authority's written decision under section 10 of this chapter.**

38 SECTION 7. IC 36-7-5.4 IS ADDED TO THE INDIANA CODE
 39 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2021]:

41 **Chapter 5.4. Siting of Commercial Solar Energy Systems in a**
 42 **Unit**



1 **Sec. 1. (a) Except as provided in subsections (c) and (d), this**
 2 **chapter applies to the following:**

3 **(1) The exercising by any unit of zoning, land use, planning, or**
 4 **permitting authority as authorized by this article, or by any**
 5 **other law, with respect to the construction, installation, siting,**
 6 **modification, operation, or decommissioning of one (1) or**
 7 **more CSE systems within the unit after June 30, 2021.**

8 **(2) The consideration by any unit, whether under a regulation**
 9 **of the unit or otherwise, of a proposal for the construction,**
 10 **installation, siting, modification, operation, or**
 11 **decommissioning of one (1) or more CSE systems in the unit**
 12 **after June 30, 2021.**

13 **(b) This chapter applies to a situation described in subsection (a)**
 14 **in a unit that:**

15 **(1) does not have a commercial solar regulation in effect in the**
 16 **unit after June 30, 2021; or**

17 **(2) does have a commercial solar regulation in effect in the**
 18 **unit after June 30, 2021, and has opted to allow the**
 19 **establishment of a renewable energy district within the unit in**
 20 **connection with a commercial solar project.**

21 **(c) Subject to a unit's planning and zoning powers under this**
 22 **article, this chapter does not apply to a property owner that seeks**
 23 **to install a solar energy device (as defined in IC 32-23-4-3) on the**
 24 **property owner's premises for the purpose of generating electricity**
 25 **to meet or offset all or part of the need for electricity on the**
 26 **premises, whether through distributed generation, participation in**
 27 **a net metering or feed-in tariff program offered by an electricity**
 28 **supplier (as defined in 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 CSE systems 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;**

38 **(2) affect the:**

39 **(A) construction;**

40 **(B) installation;**

41 **(C) siting;**

42 **(D) modification;**



- 1 (E) operation; or
 2 (F) decommissioning;
 3 of one (1) or more CSE systems in a unit that before July 1,
 4 2021, has approved such construction, installation, siting,
 5 modification, operation, or decommissioning; or
 6 (3) affect any:
 7 (A) economic development agreement; or
 8 (B) other agreement;
 9 entered before July 1, 2021, with respect to the construction,
 10 installation, siting, modification, operation, or
 11 decommissioning of one (1) or more CSE systems in one (1) or
 12 more units.
- 13 Sec. 2. (a) As used in this chapter, "commercial solar energy
 14 system", or "CSE system", means a system that:
 15 (1) has a nameplate capacity of at least ten (10) megawatts;
 16 and
 17 (2) captures and converts solar energy into electricity:
 18 (A) for the purpose of selling the electricity at wholesale;
 19 and
 20 (B) for use in locations other than where it is generated.
 21 (b) The term includes collection and feeder lines, generation tie
 22 lines, substations, ancillary buildings, solar monitoring stations,
 23 and accessory equipment or structures.
- 24 Sec. 3. As used in this chapter, "commercial solar regulation"
 25 refers to any ordinance or regulation, including any:
 26 (1) zoning or land use ordinance or regulation; or
 27 (2) general or specific planning ordinance or regulation;
 28 that is adopted by a unit and that concerns the construction,
 29 installation, siting, modification, operation, or decommissioning of
 30 CSE systems in the unit.
- 31 Sec. 4. (a) As used in this chapter, "permit authority" means:
 32 (1) a unit; or
 33 (2) a board, a commission, or any other governing body of a
 34 unit;
 35 that makes legislative or administrative decisions concerning the
 36 construction, installation, siting, modification, operation, or
 37 decommissioning of CSE systems in the unit.
 38 (b) The term does not include:
 39 (1) the state or any of its agencies, departments, boards,
 40 commissions, authorities, or instrumentalities; or
 41 (2) a court or other judicial body that reviews decisions or
 42 rulings made by a permit authority.



1 **Sec. 5. (a) As used in this chapter, "project owner" means a**
 2 **person that:**

3 **(1) will own one (1) or more CSE systems proposed to be**
 4 **located in a unit; or**

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

6 **(b) The term includes an agent or a representative of a person**
 7 **described in subsection (a).**

8 **(c) The term does not include an electricity supplier (as defined**
 9 **in IC 8-1-2.3-2).**

10 **Sec. 6. As used in this chapter, "renewable energy district", or**
 11 **"RED", has the meaning set forth in IC 8-1-42-10.**

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

13 **(1) a county, if a project owner, as part of a single CSE system**
 14 **project or development, seeks to locate one (1) or more CSE**
 15 **systems:**

16 **(A) entirely within unincorporated areas of the county;**

17 **(B) within both unincorporated areas of the county and**
 18 **one (1) or more municipalities within the county; or**

19 **(C) entirely within two (2) or more municipalities within**
 20 **the county; or**

21 **(2) a municipality, if:**

22 **(A) a project owner, as part of a single CSE system project**
 23 **or development, seeks to locate one (1) or more CSE**
 24 **systems entirely within the boundaries of the municipality;**
 25 **and**

26 **(B) subdivision (1)(B) or (1)(C) does not apply.**

27 **(b) The term refers to:**

28 **(1) each county described in subsection (a)(1) in which a**
 29 **project owner seeks to locate one (1) or more CSE systems, if**
 30 **the project owner seeks to locate CSE systems in more than**
 31 **one (1) county as part of a single CSE system project or**
 32 **development; and**

33 **(2) each municipality described in subsection (a)(2) in which**
 34 **a project owner seeks to locate one (1) or more CSE systems,**
 35 **if the project owner seeks to locate CSE systems in two (2)**
 36 **more municipalities, each of which is located in a different**
 37 **county.**

38 **Sec. 8. (a) A CSE system may not be installed or located in a unit**
 39 **without the approval of the permit authority for the unit.**

40 **(b) Except as provided in section 1(c) and 1(d) of this chapter,**
 41 **the procedures set forth in this chapter apply with respect to any**
 42 **proposal by a project owner to install or locate one (1) or more**



1 CSE systems in a unit described in section 1(b) of this chapter after
2 June 30, 2021, as provided in IC 36-1-3-8.8(i).

3 (c) Except as provided in:

- 4 (1) subsection (b);
5 (2) IC 36-1-3-8.8; and
6 (3) IC 8-1-42;

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

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

- 12 (1) this chapter; and
13 (2) the default standards set forth in IC 8-1-42.

14 Sec. 9. (a) A project owner that seeks to install or locate one (1)
15 or more CSE systems in a unit after June 30, 2021, shall file with
16 the permit authority for the unit an application in the form and
17 manner prescribed by the permit authority. An application filed
18 under this section must include the following, provided with as
19 much detail or specificity as the permit authority may reasonably
20 require, and so far as ascertainable at the time of the application:

- 21 (1) A physical and technical description of all CSE systems
22 proposed to be installed or located in the unit.
23 (2) A physical and technical description of all sites in the unit
24 on which one (1) or more CSE systems are sought to be
25 installed or located, including maps showing:
26 (A) the location of the sites; and
27 (B) the boundaries of the renewable energy district to be
28 established in connection with the project.

29 In addition to showing the boundaries of the RED, the project
30 owner must provide evidence that the project owner has a
31 documented right of site control (as defined in IC 8-1-42-4)
32 with respect to the RED, to the extent required to enable the
33 project to enter the interconnection queue of the Midcontinent
34 Independent System Operator (MISO) or another
35 appropriate regional transmission organization.

36 (3) The project owner's anticipated timeline and process for
37 constructing and installing all CSE systems proposed in the
38 application.

39 (4) Information regarding the sound:

- 40 (A) expressed as an hourly average sound level or by any
41 other measure reasonably required by the permit
42 authority; and



- 1 **(B) as modeled at the outer wall of a dwelling located on an**
 2 **adjacent nonparticipating property (as defined in**
 3 **IC 8-1-42-5);**
 4 **anticipated to be attributable to the operation of each CSE**
 5 **system included in the application.**
 6 **(5) To the extent applicable, information regarding the**
 7 **planned use and modification of any highways, streets, and**
 8 **roads in the unit during the construction and installation of all**
 9 **CSE systems included in the application, including a process**
 10 **for:**
 11 **(A) assessing road damage caused by activities involved in**
 12 **such construction and installation; and**
 13 **(B) conducting road repairs at the project owner's expense.**
 14 **(6) A copy of all emergency response plans applicable to the**
 15 **construction, installation, siting, modification, operation, and**
 16 **decommissioning of all CSE systems included in the**
 17 **application, including a process for sharing the plans with,**
 18 **and providing safety training to, all potential first responders.**
 19 **(7) A decommissioning and site restoration plan for each CSE**
 20 **system included in the application, including both a timeline**
 21 **for decommissioning and a timeline for posting any required:**
 22 **(A) surety bond;**
 23 **(B) parent company guarantee;**
 24 **(C) irrevocable letter of credit; or**
 25 **(D) other equivalent means of security or financial**
 26 **assurance acceptable to the permit authority;**
 27 **in an amount reflecting the estimated cost of decommissioning**
 28 **the CSE system.**
 29 **(8) A copy of all representative notices to be issued by the**
 30 **project owner with respect to the construction, installation,**
 31 **siting, modification, operation, and decommissioning of all**
 32 **CSE systems included in the application, including any**
 33 **preconstruction and postconstruction activities.**
 34 **(9) A copy of any vegetation plan required by the permit**
 35 **authority or the unit under IC 8-1-42-11.**
 36 **(10) Any other information reasonably necessary to**
 37 **understand the construction, installation, siting,**
 38 **modification, operation, and decommissioning of all CSE**
 39 **systems included in the application.**
 40 **(11) A statement, signed by an officer or another person**
 41 **authorized to bind the project owner, that affirms the**
 42 **accuracy of the information provided in the application.**



1 (b) A project owner that submits an application under this
2 section shall notify the permit authority in writing when all
3 required documents and information described in subsection (a)
4 have been submitted. An application under this section is
5 considered filed as of the date of the project owner's notice under
6 this subsection.

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

24 (d) A project owner may file supplemental information to an
25 application that a permit authority has determined to be
26 incomplete under subsection (c). A project owner that intends to
27 file supplemental information under this subsection shall notify the
28 permit authority of the project owner's intention not later than
29 fourteen (14) days after the date of the permit authority's notice of
30 incompleteness under subsection (c). The project owner's notice of
31 intention to file supplemental information under this subsection
32 stays the start of the period set forth in section 10 of this chapter
33 in which the permit authority must approve or deny the
34 application until such time as the application is finally determined
35 to be or is considered complete under this section. The project
36 owner shall provide any reasonably requested additional
37 information identified in the permit authority's notice under
38 subsection (c), to the extent ascertainable. A permit authority may
39 not impose a limit on the number of times a project owner may
40 supplement an application under this subsection.

41 (e) A project owner that submits a supplemented application
42 under subsection (d) shall notify the permit authority in writing



1 when all information and documents provided in connection with
 2 the supplemented application have been submitted. A thirty (30)
 3 day period for a completeness determination by the permit
 4 authority with respect to the supplemented application begins as of
 5 the date of the project owner's notice under this subsection, in
 6 accordance with the procedures set forth in subsection (c) for an
 7 initial application. If the permit authority does not make a
 8 determination as to the completeness of the supplemented
 9 application within the time prescribed by this subsection, the
 10 supplemented application is considered complete.

11 (f) After:

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

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

16 a permit authority may nevertheless request additional
 17 information reasonably necessary to understand the construction,
 18 installation, siting, modification, operation, and decommissioning
 19 of any of the CSE systems included in a project owner's initial or
 20 supplemented application. A project owner shall provide additional
 21 information in response to all reasonable inquiries made by the
 22 permit authority, and shall respond in a timely, complete, and
 23 accurate manner.

24 Sec. 10. (a) Subject to subsection (b), a permit authority shall
 25 issue a written decision to grant or deny an application or a
 26 supplemented application under this chapter not later than ninety
 27 (90) days after the application or supplemented application is
 28 finally determined to be or is considered complete. The permit
 29 authority's written decision must include all findings of fact upon
 30 which the decision is based. The permit authority shall provide a
 31 copy of the permit authority's decision to the project owner.

32 (b) A permit authority may not:

33 (1) unreasonably deny an application or a supplemented
 34 application under this chapter;

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

38 (A) property value guarantees;

39 (B) onerous road upgrades; or

40 (C) other requirements that are intended to prevent or
 41 impede (or would have the effect of preventing or
 42 impeding) the construction, installation, siting,



- 1 **modification, operation, or decommissioning of CSE**
 2 **systems in the unit; or**
 3 **(3) after approving an application or a supplemented**
 4 **application, impose unreasonable requirements upon a**
 5 **project owner, including any of the requirements set forth in**
 6 **subdivision (2), at any point during the project owner's**
 7 **construction, installation, siting, modification, operation, or**
 8 **decommissioning of CSE systems in the unit.**
- 9 **Sec. 11. (a) Not later than five (5) years after the date a**
 10 **commercial solar project is approved under section 10 of this**
 11 **chapter, the project owner must:**
- 12 **(1) submit all necessary applications for required construction**
 13 **permits and other local permits; and**
 14 **(2) complete the development process;**
 15 **for the project.**
- 16 **(b) A permit authority may require a project owner that fails to**
 17 **comply with the time frame set forth in subsection (a) to submit a**
 18 **new application under this chapter with respect to the project.**
- 19 **Sec. 12. After a permit authority issues a decision under section**
 20 **10 of this chapter with respect to the construction, installation,**
 21 **siting, modification, operation, or decommissioning of one (1) or**
 22 **more CSE systems in the unit:**
- 23 **(1) a project owner;**
 24 **(2) political subdivisions in which, or adjacent to where, the**
 25 **project will be located; or**
 26 **(3) owners of property on which, or adjacent to where, the**
 27 **project will be located;**
- 28 **who is aggrieved by the decision may file a complaint for**
 29 **appropriate relief in the circuit or superior court of a county**
 30 **having jurisdiction. A complaint under this section must be filed**
 31 **not later than thirty (30) days after the date of the permit**
 32 **authority's written decision under section 10 of this chapter.**
 33 **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



COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred House Bill No. 1381, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 19.

Page 20, delete lines 1 through 20, begin a new paragraph and insert:

"SECTION 1. IC 8-1-41 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 41. Default Standards for Wind Power Devices

Sec. 1. (a) Except as provided in subsections (b) and (c), the standards set forth in this chapter apply to a project owner that, after June 30, 2021, files an initial application under IC 36-7-5.3-9 for a project to install or locate one (1) or more wind power devices in a unit that:

(1) either:

(A) has not adopted a wind power regulation; or

(B) has in effect on July 1, 2021, a wind power regulation that includes standards that are more restrictive, directly or indirectly, than the standards set forth in this chapter; and

(2) has opted to allow the establishment of a renewable energy district within the unit in connection with the project.

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

(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;

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as set forth in IC 36-7-4-1109;

(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; or

(3) affect any:

- (A) economic development agreement; or
- (B) other agreement;

entered into 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.

Sec. 2. As used in this chapter, "documented right of site control", with respect to a site within a renewable energy district established under this chapter, means any of the following:

- (1) Ownership of the site.
- (2) A leasehold or easement interest in the site.
- (3) An option to purchase or acquire a leasehold or easement interest in the site.
- (4) Any other contractual or legal right to possess or occupy the site.

Sec. 3. As used in this chapter, "dwelling" means any building, structure, or part of a building or structure that is occupied as, or is designed or intended for occupancy as, a residence by one (1) or more families or individuals.

Sec. 4. As used in this chapter, "interconnection queue" means the study process by which a regional transmission organization (as defined in IC 8-1-38-6) conducts reliability and deliverability studies to determine whether there is available transmission capacity to accommodate the interconnection of a new proposed generating facility or whether network upgrades are needed.

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

- (1) that is not owned by a project owner; and
- (2) with respect to which:
 - (A) the project owner does not seek:



(i) to install or locate one (1) or more wind power devices or other facilities related to a wind power project (including power lines, temporary or permanent access roads, or other temporary or permanent infrastructure); or

(ii) to otherwise enter into a lease or any other agreement with the owner of the property for use of all or part of the property in connection with a wind power project; or

(B) the owner of the property does not consent:

(i) to having one (1) or more wind power devices or other facilities related to a wind power project (including power lines, temporary or permanent access roads, or other temporary or permanent infrastructure) installed or located; or

(ii) to otherwise enter into a lease or any other agreement with the project owner for use of all or part of the property in connection with a wind power project;

regardless of whether the property is located within or outside the boundaries of a renewable energy district.

(b) The term does not include a lot or parcel of real property otherwise described in subsection (a) if the owner of the lot or parcel consents to participate in a wind power project through a neighbor agreement, a participation agreement, or another similar arrangement or agreement with a project owner.

Sec. 6. (a) As used in this chapter, "permit authority" means:

(1) a unit; or

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

that makes legislative or administrative decisions concerning the construction, installation, siting, modification, operation, or decommissioning of wind power devices in the unit.

(b) The term does not include:

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

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

Sec. 7. (a) As used in this chapter, "project owner" means a person that:

(1) will own one (1) or more wind power devices proposed to be located in a unit; or

(2) owns one (1) or more wind power devices located in a unit.



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

Sec. 8. As used in this chapter, "renewable energy district", or "RED", means a district:

(1) established in connection with a project, the initial application for which is filed under IC 36-7-5.3 after June 30, 2021, to install or locate one (1) or more:

- (A) wind power devices;
- (B) commercial solar energy systems (as defined in IC 8-1-42-2); or
- (C) both;

in a unit described in section 1(a)(1) of this chapter;

(2) the area of which consists of:

- (A) the footprint of the project, as identified by the project owner in the project owner's application under IC 36-7-5; plus
- (B) an area that extends at least one and one-half (1.5) miles from the boundary lines of the footprint in all directions; and

(3) with respect to which the project owner has a documented right of site control, as demonstrated in the project owner's application under IC 36-7-5.3-9, to the extent required to enable the project to enter the interconnection queue of the Midcontinent Independent System Operator (MISO), regardless of whether the project actually enters the interconnection queue of MISO or another appropriate regional transmission organization.

Sec. 9. (a) As used in this chapter, "unit" refers to:

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

- (A) entirely within unincorporated areas of the county;
- (B) within both unincorporated areas of the county and one (1) or more municipalities within the county; or
- (C) entirely within two (2) or more municipalities within the county; or

(2) a municipality, if:

- (A) a project owner, as part of a single wind power project or development, seeks to locate one (1) or more wind power devices entirely within the boundaries of the municipality; and
- (B) subdivision (1)(B) or (1)(C) does not apply.



(b) The term refers to:

- (1) each county described in subsection (a)(1) in which a project owner seeks to locate one (1) or more wind power devices, if the project owner seeks to locate wind power devices in more than one (1) county as part of a single wind power project or development; and**
- (2) each municipality described in subsection (a)(2) in which a project owner seeks to locate one (1) or more wind power devices, if the project owner seeks to locate wind power devices in two (2) or more municipalities, each of which is located in a different county.**

Sec. 10. As used in this chapter, "wind power device" means a device, including a windmill or a wind turbine, that is designed to use the kinetic energy of moving air to provide mechanical energy or to produce electricity.

Sec. 11. As used in this chapter, "wind power regulation" refers to any ordinance or regulation, including any:

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

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

Sec. 12. (a) Subject to subsection (d), the following apply if a permit authority for a unit described in section 1(a)(1) of this chapter receives after June 30, 2021, a proposal from a project owner for a project to install or locate one (1) or more wind power devices in the unit:

- (1) A unit described in section 1(a)(1)(B) of this chapter that has in effect on July 1, 2021, a wind power regulation that includes standards that are more restrictive, directly or indirectly, than the standards set forth in sections 13 through 18 of this chapter may:**

- (A) continue to apply and enforce the unit's existing wind power regulation with respect to the proposed project; or**
- (B) allow within the unit the establishment of a renewable energy district in which the proposed project will be located.**

- (2) A unit described in section 1(a)(1)(A) of this chapter that has not adopted a wind power regulation may:**

- (A) restrict, or impose conditions or limitations on, the construction, installation, siting, modification, operation, or decommissioning of one (1) or more wind power devices**



in the unit if the unit first adopts a wind power regulation that includes standards that are not more restrictive, directly or indirectly, than the standards set forth in sections 13 through 18 of this chapter; or

(B) allow within the unit the establishment of a renewable energy district in which the proposed project will be located.

(b) This subsection applies with respect to any proposal, the initial application for which is filed with a unit after June 30, 2021, by a project owner for a project to install or locate one (1) or more wind power devices in the unit. A unit that:

(1) is described in section 1(a)(1)(B) of this chapter and that allows within the unit the establishment of a RED in which the proposed project will be located, as described in subsection (a)(1)(B);

(2) is described in section 1(a)(1)(A) of this chapter and that:
 (A) adopts a wind power regulation that includes standards that are not more restrictive, directly or indirectly, than the standards set forth in this chapter; or
 (B) allows within the unit the establishment of a RED in which the proposed project will be located, as described in subsection (a)(2)(B); or

(3) has adopted before July 1, 2021, a wind power regulation that includes standards that are not more restrictive, directly or indirectly, than the standards set forth in this chapter;

may impose a one-time construction fee for each wind power device included in a project application to which this subsection applies. A construction fee imposed under this subsection is payable by the project owner upon the commencement of construction of each wind power device and may not exceed three thousand dollars (\$3,000) per megawatt of installed capacity.

(c) A unit that imposes a construction fee under subsection (b) may allocate a percentage, to be determined by the unit, of the fees collected:

(1) for use within the project's footprint, or for the benefit of residents and businesses within the project's footprint, in the case of a unit described in subsection (b)(2)(A) or (b)(3); or

(2) for use within the RED, or for the benefit of residents and businesses within the RED, in the case of a unit that allows within the unit the establishment of a renewable energy district in which the proposed project will be located, in the case of a unit described in subsection (b)(1) or (b)(2)(B).



In addition, a unit described in subdivision (1) or (2) may allocate a percentage, to be determined by the unit, of the property tax revenues or income tax revenues, or both, that are generated by the project, for use within the project footprint or within the RED, as applicable, or for the benefit of residents and businesses within the project footprint or the RED, as applicable.

(d) A unit may, by regulation or otherwise, limit the total acreage of land within the unit's boundaries that is or may be used for projects that are described in section 8(1) of this chapter and located within the unit, regardless of whether a particular project is approved or installed within the unit before or after June 30, 2021. A limit imposed under this subsection may not restrict the total acreage of land within the unit's boundaries that is or may be used for projects described in section 8(1) of this chapter to less than forty percent (40%) of the unit's total land acreage. However, a unit may waive or increase a limit imposed under this subsection with respect to any particular project.

(e) Except as provided in:

- (1) subsection (a);
- (2) IC 36-1-3-8.7; and
- (3) IC 36-7-5.3;

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

(f) A permit authority for a unit described in section 1(a)(1) of this chapter is responsible for enforcing compliance with the following:

- (1) Within the boundaries of a RED established under subsection (a), the standards set forth in this chapter.
- (2) IC 36-7-5.3.

(g) 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;

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

with respect to any particular:

- (A) wind power device;



- (B) project described in section 8(1) of this chapter; or
- (C) RED; or
- (3) waive or make less restrictive any standard set forth in a wind power regulation adopted by the unit with respect to any particular:
 - (A) wind power device; or
 - (B) project described in section 8(1) of this chapter.

(h) This subsection applies to any unit in which a RED is established in connection with a project described in section 8(1) of this chapter. For purposes of any standard set forth in this chapter that prescribes a minimum setback distance or another minimum distance from a wind power device to any:

- (1) right-of-way;
- (2) property line;
- (3) utility line;
- (4) dwelling; or
- (5) other line, facility, object, or structure;

the prescribed minimum distance, as set forth in this chapter, shall apply with respect to each wind power device located within the RED, regardless of whether the right-of-way, property line, utility line, dwelling, or other line, facility, object, or structure from which the distance must be established is itself located within the RED.

Sec. 13. (a) Subject to subsection (h), and 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:

- (1) the centerline of any:
 - (A) runway located on a public use airport, private use airport, or municipal airport;
 - (B) public use highway, street, or road; or
 - (C) railroad easement or right-of-way; or

(2) the property line of any nonparticipating property; is equal to a distance that is at least one and one-tenth (1.1) times the wind power device's blade tip height, as measured from the ground to the tip of the blade.

(b) Subject to subsection (h), and 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 point on the outer wall of a



dwelling located on a nonparticipating property is equal to a distance that is at least three (3) times the wind power device's blade tip height, as measured from the ground to the tip of the blade.

(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.

(e) 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 a state park is equal to a distance of at least one (1) mile.

(f) A project owner may not install or locate a wind power device within a RED unless the distance, measured as a straight line, from the vertical centerline of the base of the wind power device to the corporate boundaries of any municipality within the RED is equal to a distance of at least one (1) mile. However, a municipality within a RED may waive or reduce the minimum distance prescribed by this subsection with respect to the installation of one (1) or more wind power devices.

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

(h) The distance requirements set forth in subsections (a)(2) and



(b) may be waived with respect to the siting of any one (1) wind power device, subject to the written consent of the owner of each affected nonparticipating property.

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

- (1) the project owner has used shadow flicker computer modeling to estimate the amount of shadow flicker anticipated to be caused by the wind power device; and
- (2) the wind power device has been designed such that industry standard computer modeling indicates that any dwelling on a nonparticipating property within the unit will not experience more than thirty (30) hours per year of shadow flicker under planned operating conditions for the wind power device.

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

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

Sec. 15. Except as otherwise allowed by IC 36-7-4-1109, a wind power device installed in a unit must be installed in a manner so as to minimize and mitigate impacts to:

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

Sec. 16. (a) Subject to subsection (b), and except as otherwise allowed by IC 36-7-4-1109, a project owner may not install or locate a wind power device in a unit unless the project owner demonstrates to the permit authority that the wind power device will operate in a manner such that the sound attributable to the



wind power device will not exceed an hourly average sound level of fifty (50) A-weighted decibels, as modeled at the outer wall of an affected dwelling.

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

Sec. 17. (a) As used in this section, "wind turbine light mitigation technology" means any technology used in connection with a wind power device to shield, limit, or otherwise mitigate the amount, intensity, character, or visibility of light emitted from the wind power device.

(b) Except as otherwise allowed by IC 36-7-4-1109, after January 1, 2023, and to the extent permissible under federal law or regulations, a project owner may not commence construction on a wind power device on property in a unit unless the wind power device is equipped with a wind turbine light mitigation technology, subject to any supply chain constraints with respect to the technology. However, a permit authority shall waive this requirement if:

- (1) the Federal Aviation Administration denies the project owner's application to use a wind turbine light mitigation technology; or
- (2) the project owner determines that the use of a wind turbine light mitigation technology is not economically feasible.

Sec. 18. (a) Subject to subsection (b), and except as otherwise allowed by IC 36-7-4-1109, a project owner may not install or locate a wind power device in a unit unless the project owner submits to the permit authority the decommissioning and site restoration plan required by IC 36-7-5.3-9(a)(9), and posts a surety bond, or an equivalent means of security acceptable to the permit authority, including a parent company guarantee or an irrevocable letter of credit, in an amount equal to the estimated cost of decommissioning the wind power device, as calculated by a third party licensed or registered engineer, or by another person with suitable experience in the decommissioning of wind power devices, as agreed upon by the project owner and the permit authority. The required bond or other security shall be posted in increments such that the total amount of the bond or security posted is as follows:

- (1) An amount equal to twenty-five percent (25%) of the total estimated decommissioning costs not later than the start date of the wind power device's full commercial operation. For



purposes of this subdivision, the total estimated decommissioning costs shall be reevaluated by a third party licensed or registered engineer (or by another person with suitable experience in the decommissioning of wind power devices, as agreed upon by the project owner and the permit authority) before the:

(A) fifth anniversary; and

(B) tenth anniversary;

of the start date of the wind power device's full commercial operation, and the total amount of the bond or security posted under this subdivision shall be adjusted as necessary after each reevaluation.

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

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

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

(B) at least once every succeeding five (5) year period after the twentieth anniversary of the start date of the wind power device's full commercial operation;

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



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

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

Chapter 42. Default Standards for Commercial Solar Energy Systems

Sec. 1. (a) Except as provided in subsections (b) and (c), the standards set forth in this chapter apply to a project owner that, after June 30, 2021, files an initial application under IC 36-7-5.3-9 for a project to install or locate one (1) or more CSE systems in a unit that:

(1) either:

- (A) has not adopted a commercial solar regulation; or
- (B) has in effect on July 1, 2021, a commercial solar regulation that includes standards that are more restrictive, directly or indirectly, than the standards set forth in this chapter; and

(2) has opted to allow the establishment of a renewable energy district within the unit in connection with the project.

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

(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;

(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; 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.

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

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

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

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

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

Sec. 4. As used in this chapter, "documented right of site control", with respect to a site within a renewable energy district established under this chapter, means any of the following:

- (1) Ownership of the site.
- (2) A leasehold or easement interest in the site.



(3) An option to purchase or acquire a leasehold or easement interest in the site.

(4) Any other contractual or legal right to possess or occupy the site.

Sec. 5. As used in this chapter, "dwelling" means any building, structure, or part of a building or structure that is occupied as, or is designed or intended for occupancy as, a residence by one (1) or more families or individuals.

Sec. 6. As used in this chapter, "interconnection queue" means the study process by which a regional transmission organization (as defined in IC 8-1-38-6) conducts reliability and deliverability studies to determine whether there is available transmission capacity to accommodate the interconnection of a new proposed generating facility or whether network upgrades are needed.

Sec. 7. (a) As used in this chapter, "nonparticipating property" means a lot or parcel of real property:

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

(2) with respect to which:

(A) the project owner does not seek:

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

(ii) to otherwise enter into a lease or any other agreement with the owner of the property for use of all or part of the property in connection with a CSE system project; or

(B) the owner of the property does not consent:

(i) to having one (1) or more CSE systems or other facilities related to a CSE system project (including power lines, temporary or permanent access roads, or other temporary or permanent infrastructure) installed or located; or

(ii) to otherwise enter into a lease or any other agreement with the project owner for use of all or part of the property in connection with a CSE system project.

regardless of whether the property is located within or outside the boundaries of a renewable energy district.

(b) The term does not include a lot or parcel of real property otherwise described in subsection (a) if the owner of the lot or parcel consents to participate in a CSE system project through a neighbor agreement, a participation agreement, or another similar



arrangement or agreement with a project owner.

Sec. 8. (a) As used in this chapter, "permit authority" means:

- (1) a unit; or
- (2) a board, a commission, or any other governing body of a unit;

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

(b) The term does not include:

- (1) the state or any of its agencies, departments, boards, commissions, authorities, or instrumentalities; or
- (2) a court or other judicial body that reviews decisions or rulings made by a permit authority.

Sec. 9. (a) As used in this chapter, "project owner" means a person that:

- (1) will own one (1) or more CSE systems proposed to be located in a unit; or
- (2) owns one (1) or more CSE systems located in a unit.

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

Sec. 10. As used in this chapter, "renewable energy district", or "RED", means a district:

- (1) established in connection with a project, the initial application for which is filed under IC 36-7-5.4 after June 30, 2021, to install or locate one (1) or more:

- (A) CSE systems;
- (B) wind power devices (as defined in IC 8-1-41-10); or
- (C) both;

in a unit described in section 1(a)(1) of this chapter;

- (2) the area of which consists of:

- (A) the footprint of the project, as identified by the project owner in the project owner's application under IC 36-7-5.4; plus
- (B) an area that extends at least one and one-half (1.5) miles from the boundary lines of the footprint in all directions; and

- (3) with respect to which the project owner has a documented right of site control, as demonstrated in the project owner's application under IC 36-7-5.4-9, to the extent required to enable the project to enter the interconnection queue of the Midcontinent Independent System Operator (MISO), regardless of whether the project actually enters the



interconnection queue of MISO or another appropriate regional transmission organization.

Sec. 11. (a) As used in this chapter, "unit" refers to:

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

- (A) entirely within unincorporated areas of the county;**
- (B) within both unincorporated areas of the county and one (1) or more municipalities within the county; or**
- (C) entirely within two (2) or more municipalities within the county; or**

(2) a municipality, if:

- (A) a project owner, as part of a single CSE system project or development, seeks to locate one (1) or more CSE systems entirely within the boundaries of the municipality; and**
- (B) subdivision (1)(B) or (1)(C) does not apply.**

(b) The term refers to:

(1) each county described in subsection (a)(1) in which a project owner seeks to locate one (1) or more CSE systems, if the project owner seeks to locate CSE systems in more than one (1) county as part of a single CSE system project or development; and

(2) each municipality described in subsection (a)(2) in which a project owner seeks to locate one (1) or more CSE systems, if the project owner seeks to locate CSE systems in two (2) or more municipalities, each of which is located in a different county.

Sec. 12. (a) Subject to subsection (c), the following apply if a permit authority for a unit described in section 1(a)(1) of this chapter receives after June 30, 2021, a proposal from a project owner for a project to install or locate one (1) or more CSE systems in the unit:

(1) A unit described in section 1(a)(1)(B) of this chapter that has in effect on July 1, 2021, a commercial solar regulation that includes standards that are more restrictive, directly or indirectly, than the standards set forth in sections 13 through 22 of this chapter may:

- (A) continue to apply and enforce the unit's existing commercial regulation with respect to the proposed project; or**
- (B) allow within the unit the establishment of a renewable**



energy district in which the proposed project will be located.

(2) A unit described in section 1(a)(1)(A) of this chapter that has not adopted a commercial solar regulation may:

(A) restrict, or impose conditions or limitations on, the construction, installation, siting, modification, operation, or decommissioning of one (1) or more CSE systems in the unit if the unit first adopts a commercial solar regulation that includes standards that are not more restrictive, directly or indirectly, than the standards set forth in sections 13 through 22 of this chapter; or

(B) allow within the unit the establishment of a renewable energy district in which the proposed project will be located.

(b) This subsection applies with respect to any proposal, the initial application for which is filed with a unit after June 30, 2021, by a project owner for a project to install or locate one (1) or more CSE systems in a unit. A unit that:

(1) adopts, before or after June 30, 2021, a commercial solar regulation that includes standards that are not more restrictive, directly or indirectly, than the standards set forth in this chapter, may allocate a percentage, to be determined by the unit, of the property tax revenues or income tax revenues, or both, that are generated by the project, for use within the project footprint, or for the benefit of residents and businesses within the project footprint; or

(2) allows within the unit the establishment of a RED in which a proposed project will be located, may allocate a percentage, to be determined by the unit, of the property tax revenues or income tax revenues, or both, that are generated by the project, for use within the RED, or for the benefit of residents and businesses within the RED.

(c) A unit may, by regulation or otherwise, limit the total acreage of land within the unit's boundaries that is or may be used for projects that are described in section 10(1) of this chapter and located within the unit, regardless of whether a particular project is approved or installed within the unit before or after June 30, 2021. A limit imposed under this subsection may not restrict the total acreage of land within the unit's boundaries that is or may be used for projects described in section 10(1) of this chapter to less than forty percent (40%) of the unit's total land acreage. However, a unit may waive or increase a limit imposed under this subsection



with respect to any particular project.

(d) Except as provided in:

- (1) subsection (a);
- (2) IC 36-1-3-8.8; and
- (3) IC 36-7-5.4;

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

(e) A permit authority for a unit described in section 1(a)(1) of this chapter is responsible for enforcing compliance with the following:

- (1) Within the boundaries of a RED established under subsection (a), the standards set forth in this chapter.
- (2) IC 36-7-5.4.

(f) 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 this chapter

with respect to any particular:

- (A) CSE system;
- (B) project described in section 10(1) of this chapter; or
- (C) RED; or

(3) waive or make less restrictive any standard set forth in a commercial solar regulation adopted by the unit with respect to any particular:

- (A) CSE system; or
- (B) project described in section 10(1) of this chapter.

(g) This subsection applies to any unit in which a RED is established in connection with a project described in section 10(1) of this chapter. For purposes of any standard set forth in this chapter that prescribes a minimum setback distance or another minimum distance from a CSE system to any:

- (1) right-of-way;
- (2) property line;
- (3) utility line;
- (4) dwelling; or



(5) other line, facility, object, or structure; the prescribed minimum distance, as set forth in this chapter, shall apply with respect to each wind power device located within the RED, regardless of whether the right-of-way, property line, utility line, dwelling, or other line, facility, object, or structure from which the distance must be established is itself located within the RED.

Sec. 13. (a) Subject to subsection (e), and except as otherwise allowed by IC 36-7-4-1109, a project owner may not install or locate a CSE system on property in a unit unless the distance, measured as a straight line, from the nearest outer edge of the CSE system to:

- (1) the nearest edge of the right-of-way for any:
 - (A) federal interstate highway, federal highway, state highway, or county highway is at least forty (40) feet;
 - (B) collector road is at least thirty (30) feet; or
 - (C) local road is at least ten (10) feet; or
- (2) the property line of any nonparticipating property is at least fifty (50) feet.

(b) Subject to subsection (e), and except as otherwise allowed by IC 36-7-4-1109, a project owner may not install or locate a CSE system on property in a unit unless the distance, measured as a straight line, from the nearest outer edge of the CSE system to the nearest point on the outer wall of a dwelling located on a nonparticipating property is at least one hundred fifty (150) feet.

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

- (1) in a location; and
- (2) constructed from such materials;

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

(d) Except as otherwise allowed by IC 36-7-4-1109, a project owner may not install or locate a CSE system on property in a unit unless the height of the CSE system solar panels are not more than



twenty-five (25) feet above ground level when the CSE system's arrays are at full tilt. However, a permit authority or a unit may not impose a clearance requirement between the ground and the bottom edge of a CSE system's solar panels.

(e) The:

- (1) distance requirements set forth in subsection (a)(2) and subsection (b); and
- (2) requirement for the installation of a landscape buffer set forth in subsection (c);

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

Sec. 14. Except as otherwise allowed by IC 36-7-4-1109, if a project owner installs a CSE system in a unit, the project owner 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).

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

Sec. 16. Except as otherwise allowed by IC 36-7-4-1109, if a project owner installs a CSE system in a unit, 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 at a depth of at least thirty-six (36) inches below grade or, if necessitated by onsite conditions, at a greater depth. Cables and lines located outside of the CSE system project site 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.

Sec. 17. Except as otherwise allowed by IC 36-7-4-1109, a CSE system installed by a project owner must be designed and constructed to:

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

Sec. 18. Except as otherwise allowed by IC 36-7-4-1109, a CSE system installed in a unit must be installed in a manner so as to minimize and mitigate impacts to:

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

Sec. 19. (a) Subject to subsection (b), and except as otherwise allowed by IC 36-7-4-1109, a project owner may not install or locate a CSE system in a unit unless the project owner demonstrates to the permit authority that the CSE system will operate in a manner such that the sound attributable to the CSE system will not exceed an hourly average sound level of fifty (50) A-weighted decibels, as modeled at the outer wall of a dwelling located on an adjacent nonparticipating property.

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

Sec. 20. (a) Subject to subsection (b), and except as otherwise allowed by IC 36-7-4-1109, a project owner may not install or locate a CSE system in a unit unless the project owner submits to the permit authority the decommissioning and site restoration plan required by IC 36-7-5.4-9, and posts a surety bond, or an



equivalent means of security acceptable to the permit authority, including a parent company guarantee or an irrevocable letter of credit, in an amount equal to the estimated cost of decommissioning the CSE system, as calculated by a third party licensed or registered engineer or by another person with suitable experience in the decommissioning of CSE systems, as agreed upon by the project owner and the permit authority. The required bond or other security shall be posted in increments such that the total amount of the bond or security posted is as follows:

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

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

(3) An amount equal to one hundred percent (100%) of the total estimated decommissioning costs not later than the tenth anniversary of the start date of the CSE system's full commercial operation. For purposes of this subdivision, the total estimated decommissioning costs shall be reevaluated by a third party licensed or registered engineer (or by another person with suitable experience in the decommissioning of CSE systems, as agreed upon by the project owner and the permit authority):

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

(B) at least once every succeeding five (5) year period after the tenth anniversary of the start date of the CSE system's full commercial operation;

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

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

(c) A project owner shall provide to the permit authority



written notice of the project owner's intent to decommission a CSE system not later than sixty (60) days before the discontinuation of commercial operation by the CSE system. Except as provided in subsection (e), after the discontinuation of commercial operation by the CSE system, and as part of the decommissioning process:

- (1) all structures, foundations, roads, gravel areas, and cables associated with the project shall be removed to a depth of at least thirty-six (36) inches below grade; and
- (2) the ground shall be restored to a condition reasonably similar to its condition before the start of construction activities in connection with the CSE system project.

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

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

and may initiate proceedings to recover any costs incurred.

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

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

Sec. 21. (a) If a CSE system installed in a unit does not generate electricity for eighteen (18) consecutive months:

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

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

- (1) enter the project site;
- (2) remove the CSE system project assets;



(3) sell any assets removed; and
 (4) remediate the site;
 and may initiate proceedings to recover any costs incurred.

Sec. 22. (a) As used in this section, "force majeure event" includes the following:

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

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

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

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

- (1) the CSE system is considered abandoned as of the date that is three hundred sixty-five (365) days after the date on which the CSE system last generated electricity; and
- (2) all CSE system project assets shall be removed in accordance with section 17(c) of this chapter not later than one (1) year after the date of abandonment specified in subdivision (1).

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

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

and may initiate proceedings to recover any costs incurred."

Page 22, delete lines 7 through 42, begin a new paragraph and



insert:

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

(b) As used in this section, "permit authority", with respect to a unit, has the meaning set forth in IC 8-1-41-6.

(c) As used in this section, "project owner" has the meaning set forth in IC 8-1-41-7.

(d) As used in this section, "renewable energy district", or "RED", has the meaning set forth in IC 8-1-41-8.

(e) As used in this section, "unit" has the meaning set forth in IC 8-1-41-9.

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

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

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

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

(h) Except as provided in IC 8-1-41-1(c), after June 30, 2021, a permit authority may not, directly or indirectly, restrict, or impose conditions or limitations on, the construction, installation, siting, modification, operation, or decommissioning of one (1) or more wind power devices in the unit unless the unit has in effect a wind power regulation. The following apply to a wind power regulation this is adopted after June 30, 2021:

- (1) The wind power regulation must be approved by the unit's plan commission.**
- (2) Any procedures set forth in the wind power regulation with respect to the permitting or approval process for the siting or installation of wind power devices in the unit must**



comply with IC 36-7-5.3.

(3) Any standards included in the wind power regulation must not be more restrictive, directly or indirectly, than the default standards set forth in IC 8-1-41.

(i) This subsection applies to a unit that does not have a wind power regulation in effect in the unit after June 30, 2021. Until such time as the legislative body of the unit may elect to adopt a wind power regulation that complies with subsection (h), the procedures set forth in IC 36-7-5.3 apply with respect to any proposal, the initial application for which is filed with the unit after June 30, 2021, by a project owner to install or locate one (1) or more wind power devices in the unit. If the unit approves the proposed project, the unit shall allow within the unit the establishment of a renewable energy district in which the project will be located. The standards set forth in IC 8-1-41 apply with respect to each RED established in the unit.

(j) This subsection applies to a unit that has a wind power regulation in effect in the unit on July 1, 2021. A unit described in this subsection may:

(1) continue to apply and enforce the unit's existing wind power regulation with respect to any proposed or existing project; or

(2) allow within the unit the establishment of a renewable energy district in which a proposed project will be located, in the case of any proposal, the initial application for which is filed with the unit after June 30, 2021, by a project owner to install or locate one (1) or more wind power devices in the unit. The standards set forth in IC 8-1-41 apply with respect to each RED established in the unit under this subdivision.

SECTION 5. IC 36-1-3-8.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.8. (a) Subject to a unit's planning and zoning powers under IC 36-7, this section does not apply to a property owner that seeks to install a solar energy device (as defined in IC 32-23-4-3) on the property owner's premises for the purpose of generating electricity to meet or offset all or part of the need for electricity on the premises, whether through distributed generation, participation in a net metering or feed-in tariff program offered by an electricity supplier (as defined in IC 8-1-40-4), or otherwise.

(b) As used in this section, "commercial solar energy system", or "CSE system", means a system 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.

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

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

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

(2) general or specific planning ordinance or regulation;

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

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

(e) As used in this section, "project owner" has the meaning set forth in IC 8-1-42-9.

(f) As used in this section, "renewable energy district", or "RED", has the meaning set forth in IC 8-1-42-10.

(g) As used in this section, "unit" has the meaning set forth in IC 8-1-42-11.

(h) Except as provided in IC 8-1-42-1(c), after June 30, 2021, a permit authority may not, directly or indirectly, restrict, or impose conditions or limitations on, the construction, installation, siting, modification, operation, or decommissioning of one (1) or more CSE systems in the unit unless the unit has in effect a commercial solar regulation. The following apply to a commercial solar regulation this is adopted after June 30, 2021:

(1) The commercial solar regulation must be approved by the unit's plan commission.

(2) Any procedures set forth in the commercial solar regulation with respect to the permitting or approval process for the siting or installation of CSE systems in the unit must comply with IC 36-7-5.4.

(3) Any standards included in the commercial solar regulation must not be more restrictive, directly or indirectly, than the default standards set forth in IC 8-1-42.

(i) This subsection applies to a unit that does not have a commercial solar regulation in effect in the unit after June 30,



2021. Until such time as the legislative body of the unit may elect to adopt a commercial solar regulation that complies with subsection (h), the procedures set forth in IC 36-7-5.4 apply with respect to any proposal, the initial application for which is filed with the unit after June 30, 2021, by a project owner to install or locate one (1) or more CSE systems in the unit. If the unit approves the proposed project, the unit shall allow within the unit the establishment of a renewable energy district in which the project will be located. The standards set forth in IC 8-1-42 apply with respect to each RED established in the unit.

(j) This subsection applies to a unit that has a commercial solar regulation in effect in the unit on July 1, 2021. A unit described in this subsection may:

- (1) continue to apply and enforce the unit's existing commercial solar regulation with respect to any proposed or existing project; or**
- (2) allow within the unit the establishment of a renewable energy district in which a proposed project will be located, in the case of any proposal, the initial application for which is filed with the unit after June 30, 2021, by a project owner to install or locate one (1) or more CSE systems in the unit. The standards set forth in IC 8-1-41 apply with respect to each RED established in the unit under this subdivision.**

SECTION 6. IC 36-7-5.3 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]:

Chapter 5.3. Siting of Wind Power Devices in a Unit

Sec. 1. (a) Except as provided in subsections (c) and (d), this chapter applies to the following:

- (1) The exercising by any unit of zoning, land use, planning, or permitting authority as authorized by this article, or by any other law, with respect to the construction, installation, siting, modification, operation, or decommissioning of one (1) or more wind power devices within the unit after June 30, 2021.**
- (2) The consideration by any unit, whether under a regulation of the unit or otherwise, of a proposal for the construction, installation, siting, modification, operation, or decommissioning of one (1) or more wind power devices in the unit after June 30, 2021.**

(b) This chapter applies to a situation described in subsection (a) in a unit that does not have a wind power regulation in effect in the unit after June 30, 2021.



(c) Subject to a unit's planning and zoning powers under this article, this chapter does not apply to a property owner that seeks to install a wind power device on the property owner's premises for the purpose of generating electricity to meet or offset all or part of the need for electricity on the premises, whether through distributed generation, participation in a net metering or feed-in tariff program offered by an electricity supplier (as defined in IC 8-1-40-4), or otherwise.

(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;

(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; 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.

Sec. 2. (a) As used in this chapter, "permit authority" means:

(1) a unit; or

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

that makes legislative or administrative decisions concerning the construction, installation, siting, modification, operation, or decommissioning of wind power devices in the unit.

(b) The term does not include:



- (1) the state or any of its agencies, departments, boards, commissions, authorities, or instrumentalities; or
- (2) a court or other judicial body that reviews decisions or rulings made by a permit authority.

Sec. 3. (a) As used in this chapter, "project owner" means a person that:

- (1) will own one (1) or more wind power devices proposed to be located in a unit; or
- (2) owns one (1) or more wind power devices located in a unit.

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

Sec. 4. As used in this chapter, "renewable energy district", or "RED", has the meaning set forth in IC 8-1-41-8.

Sec. 5. (a) As used in this chapter, "unit" refers to:

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

- (A) entirely within unincorporated areas of the county;
- (B) within both unincorporated areas of the county and one (1) or more municipalities within the county; or
- (C) entirely within two (2) or more municipalities within the county; or

- (2) a municipality, if:

- (A) a project owner, as part of a single wind power project or development, seeks to locate one (1) or more wind power devices entirely within the boundaries of the municipality; and
- (B) subdivision (1)(B) or (1)(C) does not apply.

(b) The term refers to:

- (1) each county described in subsection (a)(1) in which a project owner seeks to locate one (1) or more wind power devices, if the project owner seeks to locate wind power devices in more than one (1) county as part of a single wind power project or development; and
- (2) each municipality described in subsection (a)(2) in which a project owner seeks to locate one (1) or more wind power devices, if the project owner seeks to locate wind power devices in two (2) more municipalities, each of which is located in a different county.

Sec. 6. As used in this chapter, "wind power device" means a device, including a windmill or a wind turbine, that is designed to use the kinetic energy of moving air to provide mechanical energy



or to produce electricity.

Sec. 7. As used in this chapter, "wind power regulation" refers to any ordinance or regulation, including any:

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

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

Sec. 8. (a) A wind power device may not be installed or located in a unit without the approval of the permit authority for the unit.

(b) Except as provided in section 1(c) and 1(d) of this chapter, the procedures set forth in this chapter apply with respect to any proposal by a project owner to install or locate one (1) or more wind power devices in a unit described in section 1(b) of this chapter after June 30, 2021, as provided in IC 36-1-3-8.7(i).

(c) Except as provided in:

- (1) subsection (b);**
- (2) IC 36-1-3-8.7; and**
- (3) IC 8-1-41;**

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

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

- (1) this chapter; and**
- (2) the default standards set forth in IC 8-1-41.**

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

- (1) A physical and technical description of all wind power devices proposed to be installed or located in the unit.**
- (2) A physical and technical description of all sites in the unit on which one (1) or more wind power devices are sought to be installed or located, including maps showing:**
 - (A) the location of the sites; and**
 - (B) the boundaries of the renewable energy district to be established in connection with the project.**



In addition to showing the boundaries of the RED, the project owner must provide evidence that the project owner has a documented right of site control (as defined in IC 8-1-41-2) with respect to the RED, to the extent required to enable the project to enter the interconnection queue of the Midcontinent Independent System Operator (MISO), regardless of whether the project will actually enter the interconnection queue of MISO or any other appropriate regional transmission organization.

(3) The project owner's anticipated timeline and process for constructing and installing all wind power devices proposed 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;
- (B) residents of the unit;
- (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;

to be issued by the project owner with respect to the construction, installation, siting, modification, operation, and decommissioning of all wind power devices included in the application, including any preconstruction and postconstruction activities.

(11) Any other information reasonably necessary to understand the construction, installation, siting, modification, operation, and decommissioning of all wind power devices included in the application.

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

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

(c) Not later than thirty (30) days after the date of a project owner's notice under subsection (b), the permit authority shall determine whether the project owner's application is complete and shall notify the project owner in writing of the determination. Subject to subsection (f), if the permit authority determines that the application is complete, the permit authority shall proceed to make a determination as to whether to grant or deny the application under section 10 of this chapter. Subject to subsections



(d) and (e), if the permit authority determines that the application is incomplete, the permit authority shall state the reasons for the determination in the permit authority's notice to the project owner under this subsection. A permit authority shall not make a determination of incompleteness based on grounds that are arbitrary, capricious, an abuse of discretion, or not in accordance with law. If the permit authority does not make a determination as to the completeness of the application within the time prescribed by this subsection, the application is considered complete.

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

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

(f) After:

- (1) an initial application is determined to be or is considered complete under subsection (c); or
- (2) a supplemented application is determined to be or is



considered complete under subsection (e);
 a permit authority may nevertheless request additional information reasonably necessary to understand the construction, installation, siting, modification, operation, and decommissioning of any of the wind power devices included in a project owner's initial or supplemented application. A project owner shall provide additional information in response to all reasonable inquiries made by the permit authority, and shall respond in a timely, complete, and accurate manner.

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

(b) A permit authority may not:

- (1) unreasonably deny an application or a supplemented application under this chapter;
- (2) condition approval of an application or a supplemented application upon a project owner's agreement to fulfill unreasonable requirements, including:
 - (A) property value guarantees;
 - (B) onerous road upgrades; or
 - (C) other requirements that are intended to prevent or impede (or would have the effect of preventing or impeding) the construction, installation, siting, modification, operation, or decommissioning of wind power devices in the unit; or
- (3) after approving an application or a supplemented application, impose unreasonable requirements upon a project owner, including any of the requirements set forth in subdivision (2), at any point during the project owner's construction, installation, siting, modification, operation, or decommissioning of wind power devices in the unit.

Sec. 11. (a) At any time after a permit authority issues a decision under section 10 of this chapter with respect to the construction, installation, siting, modification, operation, or decommissioning of one (1) or more wind power devices in the unit:

- (1) a project owner; or
- (2) an interested party described in section 9(a)(10)(B)



through 9(a)(10)(D) of this chapter;
 who is aggrieved by the decision may file a complaint for
 appropriate relief in the circuit or superior court of a county
 having jurisdiction.

SECTION 7. IC 36-7-5.4 IS ADDED TO THE INDIANA CODE
 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 JULY 1, 2021]:

**Chapter 5.4. Siting of Commercial Solar Energy Systems in a
 Unit**

**Sec. 1. (a) Except as provided in subsections (c) and (d), this
 chapter applies to the following:**

**(1) The exercising by any unit of zoning, land use, planning, or
 permitting authority as authorized by this article, or by any
 other law, with respect to the construction, installation, siting,
 modification, operation, or decommissioning of one (1) or
 more CSE systems within the unit after June 30, 2021.**

**(2) The consideration by any unit, whether under a regulation
 of the unit or otherwise, of a proposal for the construction,
 installation, siting, modification, operation, or
 decommissioning of one (1) or more CSE systems in the unit
 after June 30, 2021.**

**(b) This chapter applies to a situation described in subsection (a)
 in a unit that does not have a commercial solar regulation in effect
 in the unit after June 30, 2021.**

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

(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;

(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; 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.

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

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

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

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

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

Sec. 4. (a) As used in this chapter, "permit authority" means:

- (1) a unit; or
- (2) a board, a commission, or any other governing body of a unit;

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

(b) The term does not include:



- (1) the state or any of its agencies, departments, boards, commissions, authorities, or instrumentalities; or
- (2) a court or other judicial body that reviews decisions or rulings made by a permit authority.

Sec. 5. (a) As used in this chapter, "project owner" means a person that:

- (1) will own one (1) or more CSE systems proposed to be located in a unit; or
- (2) owns one (1) or more CSE systems located in a unit.

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

Sec. 6. As used in this chapter, "renewable energy district", or "RED", has the meaning set forth in IC 8-1-42-10.

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

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

- (A) entirely within unincorporated areas of the county;
- (B) within both unincorporated areas of the county and one (1) or more municipalities within the county; or
- (C) entirely within two (2) or more municipalities within the county; or

- (2) a municipality, if:

- (A) a project owner, as part of a single CSE system project or development, seeks to locate one (1) or more CSE systems entirely within the boundaries of the municipality; and
- (B) subdivision (1)(B) or (1)(C) does not apply.

(b) The term refers to:

- (1) each county described in subsection (a)(1) in which a project owner seeks to locate one (1) or more CSE systems, if the project owner seeks to locate CSE systems in more than one (1) county as part of a single CSE system project or development; and
- (2) each municipality described in subsection (a)(2) in which a project owner seeks to locate one (1) or more CSE systems, if the project owner seeks to locate CSE systems in two (2) more municipalities, each of which is located in a different county.

Sec. 8. (a) A CSE system may not be installed or located in a unit without the approval of the permit authority for the unit.

(b) Except as provided in section 1(c) and 1(d) of this chapter,



the procedures set forth in this chapter apply with respect to any proposal by a project owner to install or locate one (1) or more CSE systems in a unit described in section 1(b) of this chapter after June 30, 2021, as provided in IC 36-1-3-8.8(i).

(c) Except as provided in:

- (1) subsection (b);
- (2) IC 36-1-3-8.8; and
- (3) IC 8-1-42;

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

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

- (1) this chapter; and
- (2) the default standards set forth in IC 8-1-42.

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

- (1) A physical and technical description of all CSE systems proposed to be installed or located in the unit.
- (2) A physical and technical description of all sites in the unit on which one (1) or more CSE systems are sought to be installed or located, including maps showing:
 - (A) the location of the sites; and
 - (B) the boundaries of the renewable energy district to be established in connection with the project.

In addition to showing the boundaries of the RED, the project owner must provide evidence that the project owner has a documented right of site control (as defined in IC 8-1-42-4) with respect to the RED, to the extent required to enable the project to enter the interconnection queue of the Midcontinent Independent System Operator (MISO), regardless of whether the project will actually enter the interconnection queue of MISO or any other appropriate regional transmission organization.

- (3) The project owner's anticipated timeline and process for constructing and installing all CSE systems proposed 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 a dwelling located on an adjacent nonparticipating property (as defined in IC 8-1-42-5);

anticipated to be attributable to the operation of each CSE system included in the application.

(5) To the extent applicable, information regarding the planned use and modification of any highways, streets, and roads in the unit during the construction and installation of all CSE systems 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.

(6) A copy of all emergency response plans applicable to the construction, installation, siting, modification, operation, and decommissioning of all CSE systems included in the application, including a process for sharing the plans with, and providing safety training to, all potential first responders.

(7) A decommissioning and site restoration plan for each CSE system 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 CSE system.

(8) A copy of all representative notices to:

(A) the permit authority;

(B) residents of the unit;

(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;

to be issued by the project owner with respect to the construction, installation, siting, modification, operation, and decommissioning of all CSE systems included in the



application, including any preconstruction and postconstruction activities.

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

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

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

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

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

(d) A project owner may file supplemental information to an application that a permit authority has determined to be incomplete under subsection (c). A project owner that intends to file supplemental information under this subsection shall notify the permit authority of the project owner's intention not later than fourteen (14) days after the date of the permit authority's notice of incompleteness under subsection (c). The project owner's notice of intention to file supplemental information under this subsection



stays the start of the period set forth in section 10 of this chapter in which the permit authority must approve or deny the application until such time as the application is finally determined to be or is considered complete under this section. The project owner shall provide any reasonably requested additional information identified in the permit authority's notice under subsection (c), to the extent ascertainable. A permit authority may not impose a limit on the number of times a project owner may supplement an application under this subsection.

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

(f) After:

- (1) an initial application is determined to be or is considered complete under subsection (c); or
- (2) a supplemented application is determined to be or is considered complete under subsection (e);

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

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



(b) A permit authority may not:

- (1) unreasonably deny an application or a supplemented application under this chapter;**
- (2) condition approval of an application or a supplemented application upon a project owner's agreement to fulfill unreasonable requirements, including:**
 - (A) property value guarantees;**
 - (B) onerous road upgrades; or**
 - (C) other requirements that are intended to prevent or impede (or would have the effect of preventing or impeding) the construction, installation, siting, modification, operation, or decommissioning of CSE systems in the unit; or**
- (3) after approving an application or a supplemented application, impose unreasonable requirements upon a project owner, including any of the requirements set forth in subdivision (2), at any point during the project owner's construction, installation, siting, modification, operation, or decommissioning of CSE systems in the unit.**

Sec. 11. (a) At any time after a permit authority issues a decision under section 10 of this chapter with respect to the construction, installation, siting, modification, operation, or decommissioning of one (1) or more CSE systems in the unit:

- (1) a project owner; or**
- (2) an interested party described in section 9(a)(8)(B) through 9(a)(8)(D) of this chapter;**

who is aggrieved by the decision may file a complaint for appropriate relief in the circuit or superior court of a county having jurisdiction."

Delete pages 23 through 48.

Page 49, delete lines 1 through 5.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass and be reassigned to the Senate Committee on Tax and Fiscal Policy.

(Reference is to HB 1381 as reprinted February 17, 2021.)

KOCH, Chairperson

Committee Vote: Yeas 9, Nays 2.

EH 1381—LS 7405/DI 101



COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred House Bill No. 1381, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 4, between lines 18 and 19, begin a new paragraph and insert:

"(c) The term does not include an electricity supplier (as defined in IC 8-1-2.3-2)."

Page 4, line 40, delete "(MISO)," and insert "(MISO)".

Page 4, delete line 41.

Page 4, line 42, delete "interconnection queue of MISO".

Page 5, line 39, delete "Subject to subsection (d), the" and insert **"The"**.

Page 6, line 6, delete "18" and insert **"19"**.

Page 6, line 20, delete "18" and insert **"19"**.

Page 7, line 5, after "capacity." insert **"However, a project owner is exempt from any construction fee imposed by a unit under this subsection if, at the time of application, the project owner demonstrates that the project owner has executed before July 1, 2021, a commercial offtake agreement with respect to the project."**

Page 7, line 22, after "or" insert **"within"**.

Page 7, delete lines 23 through 33.

Page 7, line 34, delete "(e)" and insert **"(d)"**.

Page 7, line 41, delete "(f)" and insert **"(e)"**.

Page 8, line 5, delete "(g)" and insert **"(f)"**.

Page 8, line 24, delete "(h)" and insert **"(g)"**.

Page 11, between lines 41 and 42, begin a new paragraph and insert:

"Sec. 18. This section applies with respect to a wind power device that is constructed or installed in a unit after June 30, 2021. Except as otherwise allowed by IC 36-7-4-1109, all damages to waterways, drainage ditches, field tiles, or other drainage related infrastructure caused by the construction, installation, or maintenance of a wind power device must be completely repaired by the project owner to near original condition so as to not impede the natural flow of water. All repairs must be completed within a reasonable period of time and:

(1) to the satisfaction of the unit; or

(2) as stated in an applicable lease or another agreement with the landowner."

Page 11, line 42, delete "18." and insert **"19."**

Page 16, between lines 36 and 37, begin a new paragraph and insert:



"(c) The term does not include an electricity supplier (as defined in IC 8-1-2.3-2)."

Page 16, line 40, delete "unde" and insert **"under"**.

Page 17, line 15, delete "(MISO)," and insert **"(MISO)"**.

Page 17, delete line 16.

Page 17, line 17, delete "interconnection queue of MISO".

Page 18, line 3, delete "Subject to subsection (c), the" and insert **"The"**.

Page 18, line 12, delete "22" and insert **"23"**.

Page 18, line 27, delete "22" and insert **"23"**.

Page 18, line 28, delete "a a" and insert **"a"**.

Page 18, delete lines 35 through 42, begin a new line block indented and insert:

"(1) is described in section 1(a)(1)(B) of this chapter and that allows within the unit the establishment of a RED in which the proposed project will be located, as described in subsection (a)(1)(B);

(2) is described in section 1(a)(1)(A) of this chapter and that:

(A) adopts a commercial solar regulation that includes standards that are not more restrictive, directly or indirectly, than the standards set forth in this chapter; or

(B) allows within the unit the establishment of a RED in which the proposed project will be located, as described in subsection (a)(2)(B); or

(3) has adopted before July 1, 2021, a commercial solar regulation that includes standards that are not more restrictive, directly or indirectly, than the standards set forth in this chapter;

may impose a one (1) time construction fee for each CSE system included in a project application to which this subsection applies. A construction fee imposed under this subsection is payable by the project owner upon the commencement of construction of each CSE system and may not exceed one thousand dollars (\$1,000) per megawatt of installed capacity. However, a project owner is exempt from any construction fee imposed by a unit under this subsection if, at the time of application, the project owner demonstrates that the project owner has executed before July 1, 2021, a commercial offtake agreement with respect to the project.

(c) A unit that imposes a construction fee under subsection (b) may allocate a percentage, to be determined by the unit, of the fees collected:

(1) for use within the project's footprint, or for the benefit of



residents and businesses within the project's footprint, in the case of a unit described in subsection (b)(2)(A) or (b)(3); or (2) for use within the RED, or for the benefit of residents and businesses within the RED, in the case of a unit that allows within the unit the establishment of a renewable energy district in which the proposed project will be located, in the case of a unit described in subsection (b)(1) or (b)(2)(B).

In addition, a unit described in subdivision (1) or (2) may allocate a percentage, to be determined by the unit, of the property tax revenues or income tax revenues, or both, that are generated by the project, for use within the project footprint or within the RED, as applicable, or for the benefit of residents and businesses within the project footprint or within the RED, as applicable."

Page 19, delete lines 1 through 17.

Page 23, between lines 11 and 12, begin a new paragraph and insert:

"Sec. 20. This section applies with respect to a CSE system that is constructed or installed in a unit after June 30, 2021. Except as otherwise allowed by IC 36-7-4-1109, all damages to waterways, drainage ditches, field tiles, or other drainage related infrastructure caused by the construction, installation, or maintenance of a CSE system must be completely repaired by the project owner to near original condition so as to not impede the natural flow of water. All repairs must be completed within a reasonable period of time and:

- (1) to the satisfaction of the unit; or**
- (2) as stated in an applicable lease or another agreement with the landowner."**

Page 23, line 12, delete "20." and insert "21."

Page 25, line 1, delete "21." and insert "22."

Page 25, line 20, delete "22." and insert "23."

Page 28, line 37, delete "this" and insert "that".

Page 29, line 28, after "IC 8-1-41" insert "**and the procedures set forth in IC 36-7-5.3**".

Page 29, between lines 29 and 30, begin a new paragraph and insert:

"(k) After June 30, 2021, a unit may not amend:

- (1) a wind power regulation; or**
- (2) any other regulation of the unit, regardless of the subject matter of the regulation;**

to address any matter concerning the construction, installation, siting, modification, operation, or decommissioning of wind power devices in the unit unless any existing provisions in the regulation are amended in such way that, as amended, they are not more



restrictive than they were before their amendment, and any new provisions that are added by the amendment comply with subsection (h)(2) and (h)(3), regardless of when the wind power regulation or other regulation was originally adopted. The unit's plan commission must approve an amendment described in this subsection."

Page 30, line 31, delete "this" and insert "that".

Page 31, line 22, delete "IC 8-1-41" and insert "**IC 8-1-42 and the procedures set forth in IC 36-7-5.4**".

Page 31, between lines 23 and 24, begin a new paragraph and insert:
"(k) After June 30, 2021, a unit may not amend:

(1) a commercial solar regulation; or

(2) any other regulation of the unit, regardless of the subject matter of the regulation;

to address any matter concerning the construction, installation, siting, modification, operation, or decommissioning of CSE systems in the unit unless any existing provisions in the regulation are amended in such way that, as amended, they are not more restrictive than they were before their amendment, and any new provisions that are added by the amendment comply with subsection (h)(2) and (h)(3), regardless of when the commercial solar regulation or other regulation was originally adopted. The unit's plan commission must approve an amendment described in this subsection."

Page 31, line 41, delete "that does not have a wind power regulation in effect in the" and insert "**that:**

(1) does not have a wind power regulation in effect in the unit after June 30, 2021; or

(2) does have a wind power regulation in effect in the unit after June 30, 2021, and has opted to allow the establishment of a renewable energy district within the unit in connection with a wind power project."

Page 31, delete line 42.

Page 33, between lines 11 and 12, begin a new paragraph and insert:

"(c) The term does not include an electricity supplier (as defined in IC 8-1-2.3-2)."

Page 35, line 6, delete "(MISO), regardless of whether" and insert "**(MISO)**".

Page 35, delete line 7.

Page 35, line 8, delete "MISO or any other" and insert "**or another**".

Page 36, line 10, delete "to:".

Page 36, delete lines 11 through 16.



Page 36, run in lines 10 through 17.

Page 38, between lines 36 and 37, begin a new paragraph and insert:

"Sec. 11. (a) Not later than five (5) years after the date a wind power project is approved under section 10 of this chapter, the project owner must:

(1) submit all necessary applications for required construction permits and other local permits; and

(2) complete the development process;

for the project.

(b) A permit authority may require a project owner that fails to comply with the time frame set forth in subsection (a) to submit a new application under this chapter with respect to the project."

Page 38, line 37, delete "Sec. 11. (a) At any time after" and insert **"Sec. 12. After"**.

Page 38, line 41, delete "or".

Page 38, line 42, delete "an interested party described in section 9(a)(10)(B)" and insert **"political subdivisions in which, or adjacent to where, the project will be located; or**

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

Page 39, delete line 1.

Page 39, line 4, after "jurisdiction." insert **"A complaint under this section must be filed not later than thirty (30) days after the date of the permit authority's written decision under section 10 of this chapter."**

Page 39, line 23, delete "that does not have a commercial solar regulation in effect" and insert **"that:**

(1) does not have a commercial solar regulation in effect in the unit after June 30, 2021; or

(2) does have a commercial solar regulation in effect in the unit after June 30, 2021, and has opted to allow the establishment of a renewable energy district within the unit in connection with a commercial solar project."

Page 39, delete line 24.

Page 41, between lines 11 and 12, begin a new paragraph and insert:

"(c) The term does not include an electricity supplier (as defined in IC 8-1-2.3-2)."

Page 42, line 36, delete "(MISO), regardless of whether" and insert **"(MISO)"**.

Page 42, delete line 37.

Page 42, line 38, delete "MISO or any other" and insert **"or another"**.



Page 43, line 33, delete "to:".

Page 43, delete lines 34 through 39.

Page 43, run in lines 33 through 40.

Page 46, between lines 19 and 20, begin a new paragraph and insert:

"Sec. 11. (a) Not later than five (5) years after the date a commercial solar project is approved under section 10 of this chapter, the project owner must:

(1) submit all necessary applications for required construction permits and other local permits; and

(2) complete the development process;

for the project.

(b) A permit authority may require a project owner that fails to comply with the time frame set forth in subsection (a) to submit a new application under this chapter with respect to the project."

Page 46, line 20, delete "Sec. 11. (a) At any time after" and insert **"Sec. 12. After"**.

Page 46, line 24, delete "or".

Page 46, line 25, delete "an interested party described in section 9(a)(8)(B) through" and insert **"political subdivisions in which, or adjacent to where, the project will be located; or**

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

Page 46, delete line 26.

Page 46, line 29, after "jurisdiction." insert **"A complaint under this section must be filed not later than thirty (30) days after the date of the permit authority's written decision under section 10 of this chapter."**

and when so amended that said bill do pass.

(Reference is to EHB 1381 as printed April 2, 2021.)

HOLDMAN, Chairperson

Committee Vote: Yeas 10, Nays 3.

