



Reprinted  
January 28, 2022

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## SENATE BILL No. 411

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DIGEST OF SB 411 (Updated January 27, 2022 4:41 pm - DI 101)

**Citations Affected:** IC 5-28; IC 8-1.

**Synopsis:** Commercial solar and wind energy. Establishes within the Indiana economic development corporation (IEDC) the commercial solar and wind energy ready communities development center (center). Sets forth the following duties of the center: (1) Providing and making easily accessible comprehensive information concerning permits required for commercial solar projects, wind power projects, and related business activities in Indiana. (2) Working with permit authorities for such projects. Provides that in addition to these duties, the center shall create and administer: (1) a program to certify a unit as a commercial solar energy ready community; and (2) a program to certify a unit as a wind energy ready community. Provides that the IEDC shall certify a unit as a commercial solar energy ready community if the unit meets certain requirements, including the adoption of a commercial solar regulation that includes standards that are not more restrictive than the default standards for commercial solar energy systems set forth in the bill (default standards). Provides that if: (1) a unit receives certification as a commercial solar energy ready community; and (2) after the unit's certification, a project owner submits a commercial solar project to be approved under standards that comply with the default standards; the IEDC shall authorize the unit to receive for a period of 10 years, beginning with the start date of the commercial solar project's full commercial operation, \$1 per megawatt  
(Continued next page)

**Effective:** July 1, 2022.

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### Messmer, Randolph Lonnie M

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January 12, 2022, read first time and referred to Committee on Utilities.  
January 24, 2022, reported favorably — Do Pass.  
January 27, 2022, read second time, amended, ordered engrossed.

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SB 411—LS 7174/DI 101



## Digest Continued

hour of electricity generated by the commercial solar project, if the IEDC determines that the procedures and standards set forth in the unit's commercial solar regulation were adhered to in the development of the project. Provides that if the IEDC determines at any time during this 10 year period that the unit has failed to continue to maintain: (1) the standards and procedural framework set forth in the unit's commercial solar regulation; and (2) all applicable zoning, land use, and planning regulations; with respect to the project, the corporation shall discontinue the incentive and shall require the unit to return to the project owner any amounts collected by the unit after the unit's breach. Sets forth the same requirements for a unit to receive: (1) certification as a wind energy ready community; and (2) the per megawatt hour incentive for wind energy produced by a wind power project approved under the unit's wind power regulation. Establishes default standards concerning the following with respect to wind power projects in units that are certified as wind energy ready communities, or that otherwise adopt the standards: (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 drainage related infrastructure. (8) Project decommissioning. Establishes default standards concerning the following with respect to commercial solar projects in units that are certified as commercial solar energy ready communities, or that otherwise adopt the standards: (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.



Reprinted  
January 28, 2022

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

## SENATE BILL No. 411

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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 5-28-28.6 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2022]:  
4 **Chapter 28.6. Commercial Solar and Wind Energy Ready**  
5 **Communities**  
6 **Sec. 1. As used in this chapter, "center" refers to the**  
7 **commercial solar and wind energy ready communities**  
8 **development center established by section 11 of this chapter.**  
9 **Sec. 2. As used in this chapter, "commercial solar project"**  
10 **means a project involving the construction, installation, siting,**  
11 **modification, operation, or decommissioning of one (1) or more**  
12 **commercial solar energy systems (as defined in IC 8-1-42-2) in a**  
13 **unit.**  
14 **Sec. 3. As used in this chapter, "commercial solar regulation"**  
15 **has the meaning set forth in IC 8-1-42-3.**

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1           **Sec. 4.** As used in this chapter, "permit", with respect to a  
 2 project, means any state or local permit, license, certificate,  
 3 approval, registration, or similar form of approval required by  
 4 statute, administrative rule, regulation (including a commercial  
 5 solar regulation or a wind power regulation), ordinance, or  
 6 resolution.

7           **Sec. 5.** As used in this chapter, "permit authority" has the  
 8 meaning set forth in:

- 9           (1) IC 8-1-41-4, in the case of a wind power project; or  
 10           (2) IC 8-1-42-6, in the case of a commercial solar project.

11           **Sec. 6.** As used in this chapter, "project" refers to:

- 12           (1) a wind power project; or  
 13           (2) a commercial solar project.

14           **Sec. 7.** As used in this chapter, "project owner" has the meaning  
 15 set forth in:

- 16           (1) IC 8-1-41-5, in the case of a wind power project; or  
 17           (2) IC 8-1-42-7, in the case of a commercial solar project.

18           **Sec. 8.** As used in this chapter, "unit" means a county or a  
 19 municipality, as specified in:

- 20           (1) IC 8-1-41-6, in the case of a wind power project; or  
 21           (2) IC 8-1-42-8, in the case of a commercial solar project.

22           **Sec. 9.** As used in this chapter, "wind power project" means a  
 23 project involving the construction, installation, siting, modification,  
 24 operation, or decommissioning of one (1) or more wind power  
 25 devices (as defined in IC 8-1-41-7) in a unit.

26           **Sec. 10.** As used in this chapter, "wind power regulation" has  
 27 the meaning set forth in IC 8-1-41-8.

28           **Sec. 11.** (a) The commercial solar and wind energy ready  
 29 communities development center is established within the  
 30 corporation. The center has the following duties:

31           (1) Providing comprehensive information concerning permits  
 32 required for projects and related business activities in  
 33 Indiana, and making the information available and easily  
 34 accessible to:

- 35           (A) project owners;  
 36           (B) state and local government offices, departments, and  
 37           administrative entities; and  
 38           (C) the public.

39           (2) Working with permit authorities to encourage the timely  
 40 and efficient issuance of permits and the resolution of related  
 41 issues.

42           (b) In addition to the duties set forth in subsection (a), the center



1 shall create and administer the following programs:

2 (1) A program to certify a unit as a commercial solar energy  
3 ready community under section 12 of this chapter.

4 (2) A program to certify a unit as a wind energy ready  
5 community under section 13 of this chapter.

6 Sec. 12. (a) A unit may apply to the corporation for certification  
7 as a commercial solar energy ready community. The application  
8 must be in a form and manner prescribed by the corporation. The  
9 corporation shall approve an application and certify a unit as a  
10 commercial solar energy ready community if the corporation  
11 determines the following:

12 (1) That the unit has adopted a commercial solar regulation  
13 that includes clear standards for the construction, installation,  
14 siting, modification, operation, or decommissioning of one (1)  
15 or more commercial solar energy systems (as defined in  
16 IC 8-1-42-2) in the unit.

17 (2) That the unit's commercial solar regulation:

18 (A) includes standards that are not more restrictive,  
19 directly or indirectly, than the default standards for  
20 commercial solar energy systems set forth in IC 8-1-42;

21 (B) provides a clear and transparent process for project  
22 owners to identify potential commercial solar project sites;

23 (C) does not unreasonably eliminate portions of the unit as  
24 sites for commercial solar projects;

25 (D) provides for a fair review and approval process for  
26 proposed commercial solar projects, including final  
27 approval that cannot be revoked; and

28 (E) includes a specific plan for using any funds from an  
29 incentive granted by the corporation under subsection (b):

30 (i) for economic development purposes within or near  
31 the commercial solar project's footprint; or

32 (ii) to otherwise benefit residents and businesses within  
33 or near the commercial solar project's footprint.

34 (3) That the unit has demonstrated a commitment to  
35 maintain:

36 (A) the standards and procedural framework set forth in  
37 the unit's commercial solar regulation; and

38 (B) all applicable zoning, land use, and planning  
39 regulations;

40 with respect to any particular commercial solar project that  
41 is approved under the unit's commercial solar regulation, for  
42 a period of at least ten (10) years, beginning with the start



- 1           date of the commercial solar project's full commercial  
2           operation.
- 3           **(b) If:**
- 4           (1) a unit receives certification as a commercial solar energy  
5           ready community by the corporation under this section; and  
6           (2) after the unit's certification, a project owner submits a  
7           commercial solar project to be approved under standards that  
8           comply with IC 8-1-42-10 through IC 8-1-42-20;
- 9           the corporation shall authorize the unit to receive for a period of  
10          ten (10) years, beginning with the start date of the commercial  
11          solar project's full commercial operation, one dollar (\$1) per  
12          megawatt hour of electricity generated by the commercial solar  
13          project, if the corporation determines that the procedures and  
14          standards set forth in the unit's commercial solar regulation were  
15          adhered to in the development of the project. However, if the  
16          corporation determines at any time after the start of the  
17          commercial solar project's full commercial operation that the unit  
18          has failed to continue to meet the requirement for certification set  
19          forth in subsection (a)(4), the corporation shall discontinue the  
20          incentive granted under this subsection and shall require the unit  
21          to return to the project owner any amounts collected by the unit  
22          under this subsection after the unit's breach of the requirement for  
23          certification set forth in subsection (a)(4).
- 24          **Sec. 13. (a) A unit may apply to the corporation for certification**  
25          **as a wind energy ready community. The application must be in a**  
26          **form and manner prescribed by the corporation. The corporation**  
27          **shall approve an application and certify a unit as a wind energy**  
28          **ready community if the corporation determines the following:**
- 29                **(1) That the unit has adopted a wind power regulation that**  
30                **includes clear standards for the construction, installation,**  
31                **siting, modification, operation, or decommissioning of one (1)**  
32                **or more wind power devices (as defined in IC 8-1-41-7) in the**  
33                **unit.**
- 34                **(2) That the unit's wind power regulation:**
- 35                    **(A) includes standards that are not more restrictive,**  
36                    **directly or indirectly, than the default standards for wind**  
37                    **power devices set forth in IC 8-1-41;**  
38                    **(B) provides a clear and transparent process for project**  
39                    **owners to identify potential wind power project sites;**  
40                    **(C) does not unreasonably eliminate portions of the unit as**  
41                    **sites for wind power projects;**  
42                    **(D) provides for a fair review and approval process for**



- 1           **proposed wind power projects, including final approval**  
 2           **that cannot be revoked; and**  
 3           **(E) includes a specific plan for using any funds from an**  
 4           **incentive granted by the corporation under subsection (b):**  
 5               **(i) for economic development purposes within or near**  
 6               **the wind power project's footprint; or**  
 7               **(ii) to otherwise benefit residents and businesses within**  
 8               **or near the wind power project's footprint.**  
 9           **(3) That the unit has demonstrated a commitment to**  
 10           **maintain:**  
 11               **(A) the standards and procedural framework set forth in**  
 12               **the unit's wind power regulation; and**  
 13               **(B) all applicable zoning, land use, and planning**  
 14               **regulations;**  
 15           **with respect to any particular wind power project that is**  
 16           **approved under the unit's commercial solar regulation, for a**  
 17           **period of at least ten (10) years, beginning with the start date**  
 18           **of the wind power project's full commercial operation.**  
 19           **(b) If:**  
 20               **(1) a unit receives certification as a wind energy ready**  
 21               **community by the corporation under this section; and**  
 22               **(2) after the unit's certification, a project owner submits a**  
 23               **wind power project to be approved under standards that**  
 24               **comply with IC 8-1-41-10 through IC 8-1-41-16;**  
 25           **the corporation shall authorize the unit to receive for a period of**  
 26           **ten (10) years, beginning with the start date of the wind power**  
 27           **project's full commercial operation, one dollar (\$1) per megawatt**  
 28           **hour of electricity generated by the wind power project, if the**  
 29           **corporation determines that the procedures and standards set**  
 30           **forth in the unit's wind power regulation were adhered to in the**  
 31           **development of the project. However, if the corporation determines**  
 32           **at any time after the start of the wind power project's full**  
 33           **commercial operation that the unit has failed to continue to meet**  
 34           **the requirement for certification set forth in subsection (a)(4), the**  
 35           **corporation shall discontinue the incentive granted under this**  
 36           **subsection and shall require the unit to return to the project owner**  
 37           **any amounts collected by the unit under this subsection after the**  
 38           **unit's breach of the requirement for certification set forth in**  
 39           **subsection (a)(4).**  
 40           **Sec. 14. A unit may be certified as both:**  
 41               **(1) a commercial solar energy ready community under section**  
 42               **12 of this chapter; and**



1           **(2) a wind energy ready community under section 13 of this**  
 2           **chapter;**  
 3           **if the unit meets the requirements for certification set forth in both**  
 4           **sections 12 and 13 of this chapter.**

5           SECTION 2. IC 8-1-41 IS ADDED TO THE INDIANA CODE AS  
 6           A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
 7           1, 2022]:

8           **Chapter 41. Default Standards for Wind Power Devices**

9           **Sec. 1. (a) Except as provided in subsections (c) and (d), and**  
 10           **subject to section 9(b) of this chapter, the standards set forth in**  
 11           **sections 10 through 16 of this chapter apply to a project owner**  
 12           **that, after June 30, 2022, submits an initial request for a project to**  
 13           **install or locate one (1) or more wind power devices in a unit that**  
 14           **has been certified as a wind energy ready community under**  
 15           **IC 5-28-28.6.**

16           **(b) Except as provided in subsections (c) and (d), and subject to**  
 17           **section 9(b) of this chapter, one (1) or more particular standards**  
 18           **set forth in sections 10 through 16 of this chapter apply to a project**  
 19           **owner that submits an initial request for a project to install or**  
 20           **locate one (1) or more wind power devices in a unit that has in**  
 21           **effect a wind power regulation that includes those particular**  
 22           **standards at the time the project owner's initial request is**  
 23           **submitted.**

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

32           **(d) A standard set forth in sections 10 through 16 of this chapter**  
 33           **does not apply to any of the following, unless the standard is**  
 34           **already agreed to before July 1, 2022, by the parties involved:**

35           **(1) Any proposal, request, or application that:**

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

39           **(B) is submitted by a project owner to a unit before July 1,**  
 40           **2022; and**

41           **(C) is pending as of July 1, 2022;**

42           **as set forth in IC 36-7-4-1109.**





- 1           **(2) The:**  
 2           **(A) construction;**  
 3           **(B) installation;**  
 4           **(C) siting;**  
 5           **(D) modification;**  
 6           **(E) operation; or**  
 7           **(F) decommissioning;**  
 8           **of one (1) or more wind power devices in a unit that before**  
 9           **July 1, 2022, has approved such construction, installation,**  
 10           **siting, modification, operation, or decommissioning.**  
 11           **(3) Any:**  
 12           **(A) economic development agreement; or**  
 13           **(B) other agreement;**  
 14           **entered into before July 1, 2022, with respect to the**  
 15           **construction, installation, siting, modification, operation, or**  
 16           **decommissioning of one (1) or more wind power devices in**  
 17           **one (1) or more units.**  
 18           **Sec. 2. As used in this chapter, "dwelling" means any building,**  
 19           **structure, or part of a building or structure that is occupied as, or**  
 20           **is designed or intended for occupancy as, a residence by one (1) or**  
 21           **more families or individuals.**  
 22           **Sec. 3. (a) As used in this chapter, "nonparticipating property"**  
 23           **means a lot or parcel of real property:**  
 24           **(1) that is not owned by a project owner; and**  
 25           **(2) with respect to which:**  
 26           **(A) the project owner does not seek:**  
 27           **(i) to install or locate one (1) or more wind power devices**  
 28           **or other facilities related to a wind power project**  
 29           **(including power lines, temporary or permanent access**  
 30           **roads, or other temporary or permanent infrastructure);**  
 31           **or**  
 32           **(ii) to otherwise enter into a lease or any other**  
 33           **agreement with the owner of the property for use of all**  
 34           **or part of the property in connection with a wind power**  
 35           **project; or**  
 36           **(B) the owner of the property does not consent:**  
 37           **(i) to having one (1) or more wind power devices or other**  
 38           **facilities related to a wind power project (including**  
 39           **power lines, temporary or permanent access roads, or**  
 40           **other temporary or permanent infrastructure) installed**  
 41           **or located; or**  
 42           **(ii) to otherwise enter into a lease or any other**



1 agreement with the project owner for use of all or part  
2 of the property in connection with a wind power project.

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

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

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

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

15 (b) The term does not include:

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

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

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

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

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

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

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

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

38 (2) a municipality, if:

39 (A) a project owner, as part of a single wind power project  
40 or development, seeks to locate one (1) or more wind  
41 power devices entirely within the boundaries of the  
42 municipality; and



- 1                   **(B) subdivision (1)(B) or (1)(C) does not apply.**  
 2                   **(b) The term refers to:**  
 3                   **(1) each county described in subsection (a)(1) in which a**  
 4                   **project owner seeks to locate one (1) or more wind power**  
 5                   **devices, if the project owner seeks to locate wind power**  
 6                   **devices in more than one (1) county as part of a single wind**  
 7                   **power project or development; and**  
 8                   **(2) each municipality described in subsection (a)(2) in which**  
 9                   **a project owner seeks to locate one (1) or more wind power**  
 10                   **devices, if the project owner seeks to locate wind power**  
 11                   **devices in two (2) or more municipalities, each of which is**  
 12                   **located in a different county.**  
 13                   **Sec. 7. As used in this chapter, "wind power device" means a**  
 14                   **device, including a windmill or a wind turbine, that is designed to**  
 15                   **use the kinetic energy of moving air to provide mechanical energy**  
 16                   **or to produce electricity.**  
 17                   **Sec. 8. As used in this chapter, "wind power regulation" refers**  
 18                   **to any ordinance or regulation, including any:**  
 19                   **(1) zoning or land use ordinance or regulation; or**  
 20                   **(2) general or specific planning ordinance or regulation;**  
 21                   **that is adopted by a unit and that concerns the construction,**  
 22                   **installation, siting, modification, operation, or decommissioning of**  
 23                   **wind power devices in the unit.**  
 24                   **Sec. 9. (a) A permit authority for a unit described in section 1(a)**  
 25                   **or 1(b) of this chapter is responsible for enforcing compliance with**  
 26                   **any standards set forth in sections 10 through 16 of this chapter**  
 27                   **that apply in the unit under section 1(a) or 1(b) of this chapter.**  
 28                   **(b) A unit may:**  
 29                   **(1) adopt and enforce a wind power regulation that includes**  
 30                   **standards that:**  
 31                   **(A) concern the construction, installation, siting,**  
 32                   **modification, operation, or decommissioning of wind**  
 33                   **power devices in the unit; and**  
 34                   **(B) are less restrictive than the standards set forth in this**  
 35                   **chapter;**  
 36                   **(2) waive or make less restrictive any standard set forth in**  
 37                   **this chapter with respect to any particular:**  
 38                   **(A) wind power device; or**  
 39                   **(B) project to install one (1) or more wind power devices in**  
 40                   **the unit; or**  
 41                   **(3) waive or make less restrictive any standard that is not set**  
 42                   **forth in this chapter but that is included in a wind power**



1 regulation adopted by the unit with respect to any particular:

2 (A) wind power device; or

3 (B) project to install one (1) or more wind power devices in  
4 the unit.

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

8 Sec. 10. (a) Subject to subsection (h), and except as otherwise  
9 allowed by IC 36-7-4-1109, a project owner may not install or  
10 locate a wind power device on property in a unit unless the  
11 distance, measured as a straight line, from the vertical centerline  
12 of the base of the wind power device to:

13 (1) the centerline of any:

14 (A) runway located on a public use airport, private use  
15 airport, or municipal airport;

16 (B) public use highway, street, or road; or

17 (C) railroad easement or right-of-way; or

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

22 (b) Subject to subsection (h), and except as otherwise allowed by  
23 IC 36-7-4-1109, a project owner may not install or locate a wind  
24 power device on property in a unit unless the distance, measured  
25 as a straight line, from the vertical centerline of the base of the  
26 wind power device to the nearest point on the outer wall of a  
27 dwelling located on a nonparticipating property is equal to a  
28 distance that is at least three (3) times the wind power device's  
29 blade tip height, as measured from the ground to the tip of the  
30 blade.

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

39 (d) Except as otherwise allowed by IC 36-7-4-1109, a project  
40 owner may not install or locate a wind power device on property  
41 in a unit unless the distance, measured as a straight line, from the  
42 vertical centerline of the base of the wind power device to the



1 property line of any undeveloped land within the unit that is zoned  
 2 or platted for residential use is equal to a distance that is at least  
 3 two (2) times the wind power device's blade tip height, as measured  
 4 from the ground to the tip of the blade.

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

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

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

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

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

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

39 (2) the wind power device has been designed such that  
 40 industry standard computer modeling indicates that any  
 41 dwelling on a nonparticipating property within the unit will  
 42 not experience more than thirty (30) hours per year of shadow



- 1 flicker under planned operating conditions for the wind  
2 power device.
- 3 (b) After a project owner installs or locates a wind power device  
4 in a unit, the project owner shall work with the owner of any  
5 affected dwelling on a nonparticipating property to mitigate the  
6 effects of shadow flicker to the extent reasonably practicable.
- 7 (c) The requirement set forth in subsection (a)(2) may be waived  
8 with respect to any one (1) wind power device, subject to the  
9 written consent of the owner of each affected nonparticipating  
10 property.
- 11 Sec. 12. Except as otherwise allowed by IC 36-7-4-1109, a wind  
12 power device installed in a unit must be installed in a manner so as  
13 to minimize and mitigate impacts to:
- 14 (1) television signals;  
15 (2) microwave signals;  
16 (3) agricultural global positioning systems;  
17 (4) military defense radar;  
18 (5) radio reception; or  
19 (6) weather and doppler radar.
- 20 Sec. 13. (a) Subject to subsection (b), and except as otherwise  
21 allowed by IC 36-7-4-1109, a project owner may not install or  
22 locate a wind power device in a unit unless the project owner  
23 demonstrates to the permit authority that the wind power device  
24 will operate in a manner such that the sound attributable to the  
25 wind power device will not exceed an hourly average sound level  
26 of fifty (50) A-weighted decibels, as modeled at the outer wall of an  
27 affected dwelling.
- 28 (b) The requirement set forth in subsection (a) may be waived  
29 with respect to any one (1) wind power device, subject to the  
30 written consent of the owner of each affected property.
- 31 Sec. 14. (a) As used in this section, "wind turbine light  
32 mitigation technology" means any technology used in connection  
33 with a wind power device to shield, limit, or otherwise mitigate the  
34 amount, intensity, character, or visibility of light emitted from the  
35 wind power device.
- 36 (b) Except as otherwise allowed by IC 36-7-4-1109, after  
37 January 1, 2023, and to the extent permissible under federal law or  
38 regulations, a wind power device on property in a unit must be  
39 equipped with a wind turbine light mitigation technology, unless:  
40 (1) the Federal Aviation Administration denies the project  
41 owner's application to use a wind turbine light mitigation  
42 technology;



- 1           (2) the wind turbine light mitigation technology application is
- 2           pending review by the appropriate federal agencies; or
- 3           (3) the project owner determines that the use of a wind
- 4           turbine light mitigation technology is not economically
- 5           feasible.

6           **Sec. 15.** This section applies with respect to a wind power device  
 7 that is constructed or installed in a unit after June 30, 2022. Except  
 8 as otherwise allowed by IC 36-7-4-1109, all damages to waterways,  
 9 drainage ditches, field tiles, or other drainage related  
 10 infrastructure caused by the construction, installation, or  
 11 maintenance of a wind power device must be completely repaired  
 12 by the project owner or remedied with the installation of new  
 13 drainage infrastructure so as to not impede the natural flow of  
 14 water. All repairs must be completed within a reasonable period of  
 15 time and:

- 16           (1) to the satisfaction of the unit; and
- 17           (2) as stated in an applicable lease or another agreement with
- 18           the landowner;

19           subject to applicable federal, state, and local drainage laws and  
 20 regulations.

21           **Sec. 16.** (a) Subject to subsection (b), and except as otherwise  
 22 allowed by IC 36-7-4-1109, a project owner may not install or  
 23 locate a wind power device in a unit unless the project owner  
 24 submits to the permit authority a decommissioning and site  
 25 restoration plan, and posts a surety bond, or an equivalent means  
 26 of security acceptable to the permit authority, including a parent  
 27 company guarantee or an irrevocable letter of credit, but excluding  
 28 cash, in an amount equal to the estimated cost of decommissioning  
 29 the wind power device, as calculated by a third party licensed or  
 30 registered engineer, or by another person with suitable experience  
 31 in the decommissioning of wind power devices, as agreed upon by  
 32 the project owner and the permit authority. The required bond or  
 33 other security shall be posted in increments such that the total  
 34 amount of the bond or security posted is as follows:

- 35           (1) An amount equal to twenty-five percent (25%) of the total
- 36           estimated decommissioning costs not later than the start date
- 37           of the wind power device's full commercial operation. For
- 38           purposes of this subdivision, the total estimated
- 39           decommissioning costs shall be reevaluated by a third party
- 40           licensed or registered engineer (or by another person with
- 41           suitable experience in the decommissioning of wind power
- 42           devices, as agreed upon by the project owner and the permit



1 authority) in connection with the:

2 (A) fifth anniversary; and

3 (B) tenth anniversary;

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

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

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

30 (A) in connection with the twentieth anniversary of the  
31 start date of the wind power device's full commercial  
32 operation; and

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

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

39 (b) For purposes of this section, the estimated cost of  
40 decommissioning a wind power device, as calculated by a licensed  
41 or registered professional engineer (or by another person with  
42 suitable experience in the decommissioning of wind power devices,





1 as agreed upon by the project owner and the permit authority),  
 2 shall be net of any estimated salvage value attributable to the wind  
 3 power device at the time of decommissioning, unless the unit and  
 4 the project owner agree to include any such value in the estimated  
 5 cost.

6 SECTION 3. IC 8-1-42 IS ADDED TO THE INDIANA CODE AS  
 7 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
 8 1, 2022]:

9 **Chapter 42. Default Standards for Commercial Solar Energy**  
 10 **Systems**

11 **Sec. 1. (a) Except as provided in subsections (b) and (c), and**  
 12 **subject to section 9(b) of this chapter, the standards set forth in**  
 13 **sections 10 through 20 of this chapter apply to a project owner**  
 14 **that, after June 30, 2022, submits an initial request for a project to**  
 15 **install or locate one (1) or more CSE systems in a unit that has**  
 16 **been certified as a commercial solar energy ready community**  
 17 **under IC 5-28-28.6.**

18 **(b) Except as provided in subsections (c) and (d), and subject to**  
 19 **section 9(b) of this chapter, one (1) or more particular standards**  
 20 **set forth in sections 10 through 20 of this chapter apply to a project**  
 21 **owner that submits an initial request for a project to install or**  
 22 **locate one (1) or more CSE systems in a unit that has in effect a**  
 23 **commercial solar regulation that includes those particular**  
 24 **standards at the time the project owner's initial request is**  
 25 **submitted.**

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

34 **(d) A standard set forth in sections 10 through 20 of this chapter**  
 35 **does not apply to any of the following, unless the standard is**  
 36 **already agreed to before July 1, 2022, by the parties involved:**

37 **(1) Any proposal, request, or application that:**

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

41 **(B) is submitted by a project owner to a unit before July 1,**  
 42 **2022; and**



1           (C) is pending as of July 1, 2022;  
2           as set forth in IC 36-7-4-1109.  
3           (2) The:  
4           (A) construction;  
5           (B) installation;  
6           (C) siting;  
7           (D) modification;  
8           (E) operation; or  
9           (F) decommissioning;  
10          of one (1) or more CSE systems in a unit that before July 1,  
11          2022, has approved such construction, installation, siting,  
12          modification, operation, or decommissioning.  
13          (3) Any:  
14          (A) economic development agreement; or  
15          (B) other agreement;  
16          entered into before July 1, 2022, with respect to the  
17          construction, installation, siting, modification, operation, or  
18          decommissioning of one (1) or more CSE systems in one (1) or  
19          more units.  
20          Sec. 2. (a) As used in this chapter, "commercial solar energy  
21          system", or "CSE system", means a system that:  
22          (1) has a nameplate capacity of at least ten (10) megawatts;  
23          and  
24          (2) captures and converts solar energy into electricity:  
25          (A) for the purpose of selling the electricity at wholesale;  
26          and  
27          (B) for use in locations other than where it is generated.  
28          (b) The term includes collection and feeder lines, generation tie  
29          lines, substations, ancillary buildings, solar monitoring stations,  
30          and accessory equipment or structures.  
31          Sec. 3. As used in this chapter, "commercial solar regulation"  
32          refers to any ordinance or regulation, including any:  
33          (1) zoning or land use ordinance or regulation; or  
34          (2) general or specific planning ordinance or regulation;  
35          that is adopted by a unit and that concerns the construction,  
36          installation, siting, modification, operation, or decommissioning of  
37          CSE systems in the unit.  
38          Sec. 4. As used in this chapter, "dwelling" means any building,  
39          structure, or part of a building or structure that is occupied as, or  
40          is designed or intended for occupancy as, a residence by one (1) or  
41          more families or individuals.  
42          Sec. 5. (a) As used in this chapter, "nonparticipating property"



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



- 1           **(2) owns one (1) or more CSE systems located in a unit.**
- 2           **(b) The term includes an agent or a representative of a person**
- 3 **described in subsection (a).**
- 4           **(c) The term does not include an electricity supplier (as defined**
- 5 **in IC 8-1-2.3-2).**
- 6           **Sec. 8. (a) As used in this chapter, "unit" refers to:**
- 7               **(1) a county, if a project owner, as part of a single CSE system**
- 8 **project or development, seeks to locate one (1) or more CSE**
- 9 **systems:**
- 10               **(A) entirely within unincorporated areas of the county;**
- 11               **(B) within both unincorporated areas of the county and**
- 12 **one (1) or more municipalities within the county; or**
- 13               **(C) entirely within two (2) or more municipalities within**
- 14 **the county; or**
- 15               **(2) a municipality, if:**
- 16                   **(A) a project owner, as part of a single CSE system project**
- 17 **or development, seeks to locate one (1) or more CSE**
- 18 **systems entirely within the boundaries of the municipality;**
- 19 **and**
- 20                   **(B) subdivision (1)(B) or (1)(C) does not apply.**
- 21           **(b) The term refers to:**
- 22               **(1) each county described in subsection (a)(1) in which a**
- 23 **project owner seeks to locate one (1) or more CSE systems, if**
- 24 **the project owner seeks to locate CSE systems in more than**
- 25 **one (1) county as part of a single CSE system project or**
- 26 **development; and**
- 27               **(2) each municipality described in subsection (a)(2) in which**
- 28 **a project owner seeks to locate one (1) or more CSE systems,**
- 29 **if the project owner seeks to locate CSE systems in two (2) or**
- 30 **more municipalities, each of which is located in a different**
- 31 **county.**
- 32           **Sec. 9. (a) A permit authority for a unit described in section 1(a)**
- 33 **or 1(b) of this chapter is responsible for enforcing compliance with**
- 34 **any standards set forth in sections 10 through 20 of this chapter**
- 35 **that apply in the unit under section 1(a) or 1(b) of this chapter.**
- 36           **(b) A unit may:**
- 37               **(1) adopt and enforce a commercial solar regulation that**
- 38 **includes standards that:**
- 39                   **(A) concern the construction, installation, siting,**
- 40 **modification, operation, or decommissioning of CSE**
- 41 **systems in the unit; and**
- 42                   **(B) are less restrictive than the standards set forth in this**



- 1 chapter;
- 2 (2) waive or make less restrictive any standard set forth in
- 3 this chapter with respect to any particular:
- 4 (A) CSE system; or
- 5 (B) project to install one (1) or more CSE systems in the
- 6 unit; or
- 7 (3) waive or make less restrictive any standard that is not set
- 8 forth in this chapter but that is included in a commercial solar
- 9 regulation adopted by the unit with respect to any particular:
- 10 (A) CSE system; or
- 11 (B) project to install one (1) or more CSE systems in the
- 12 unit.
- 13 (c) This chapter does not affect a unit's planning and zoning
- 14 powers under IC 36-7 with respect to the installation or siting of
- 15 one (1) or more CSE systems in the unit.
- 16 Sec. 10. (a) Subject to subsection (e), and except as otherwise
- 17 allowed by IC 36-7-4-1109, a project owner may not install or
- 18 locate a CSE system on property in a unit unless the distance,
- 19 measured as a straight line, from the nearest outer edge of the CSE
- 20 system to:
- 21 (1) the nearest edge of the right-of-way for any:
- 22 (A) federal interstate highway, federal highway, state
- 23 highway, or county highway is at least forty (40) feet;
- 24 (B) collector road is at least thirty (30) feet; or
- 25 (C) local road is at least ten (10) feet; or
- 26 (2) the property line of any nonparticipating property is at
- 27 least fifty (50) feet.
- 28 (b) Subject to subsection (e), and except as otherwise allowed by
- 29 IC 36-7-4-1109, a project owner may not install or locate a CSE
- 30 system on property in a unit unless the distance, measured as a
- 31 straight line, from the nearest outer edge of the CSE system to the
- 32 nearest point on the outer wall of a dwelling located on a
- 33 nonparticipating property is at least two hundred fifty (250) feet.
- 34 (c) Subject to subsection (e), and except as otherwise allowed by
- 35 IC 36-7-4-1109, if a project owner installs a CSE system within a
- 36 distance of two hundred fifty (250) feet, measured as a straight
- 37 line, from the nearest outer edge of the CSE system to the nearest
- 38 point on the outer wall of a dwelling located on a nonparticipating
- 39 property, the project owner shall install a landscape buffer in the
- 40 area between the nearest outer edge of the CSE system and the
- 41 CSE system-facing property line of the nonparticipating property:
- 42 (1) in a location that is not on the property of the



1           nonparticipating property owner; and  
 2           (2) constructed from such materials;  
 3 as set forth in a plan submitted to the unit during the permitting  
 4 and approval process for the CSE system.

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

12           (e) The:

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

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

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

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

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

29           (2) provides for the planting of noninvasive species and the  
 30 use of native or naturalized species if the planting and use of  
 31 noninvasive and native or naturalized species are:

32           (A) appropriate to the region;

33           (B) economically feasible; and

34           (C) agreed to by the landowner;

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

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

40           Sec. 12. Except as otherwise allowed by IC 36-7-4-1109, if a  
 41 project owner installs a CSE system in a unit, the project owner  
 42 shall completely enclose the CSE system with fencing that is at



- 1 least six (6) feet high.
- 2 Sec. 13. Except as otherwise allowed by IC 36-7-4-1109, if a  
 3 project owner installs a CSE system in a unit, all cables of up to  
 4 thirty-four and one-half (34.5) kilovolts that are located between  
 5 inverter locations and project substations shall be located and  
 6 maintained underground, as feasible. Other solar infrastructure,  
 7 such as module-to-module collection cables, transmission lines,  
 8 substations, junction boxes, and other typical aboveground  
 9 infrastructure may be located and maintained above ground.  
 10 Buried cables shall be at a depth of at least thirty-six (36) inches  
 11 below grade or, if necessitated by onsite conditions, at a greater  
 12 depth. Cables and lines located outside of the CSE system project  
 13 site may:
- 14 (1) be located above ground; or
  - 15 (2) in the case of cables or lines of up to thirty-four and  
 16 one-half (34.5) kilovolts, be buried underground at:
    - 17 (A) a depth of at least forty-eight (48) inches below grade,  
 18 so as to not interfere with drainage tile or ditch repairs; or
    - 19 (B) another depth, as necessitated by conditions;  
 20 as determined in consultation with the landowner.
- 21 Sec. 14. Except as otherwise allowed by IC 36-7-4-1109, a CSE  
 22 system installed by a project owner must be designed and  
 23 constructed to:
- 24 (1) minimize glare on adjacent properties and roadways; and
  - 25 (2) not interfere with vehicular traffic, including air traffic.
- 26 Sec. 15. Except as otherwise allowed by IC 36-7-4-1109, a CSE  
 27 system installed in a unit must be installed in a manner so as to  
 28 minimize and mitigate impacts to:
- 29 (1) television signals;
  - 30 (2) microwave signals;
  - 31 (3) agricultural global positioning systems;
  - 32 (4) military defense radar;
  - 33 (5) radio reception; or
  - 34 (6) weather and doppler radar.
- 35 Sec. 16. (a) Subject to subsection (b), and except as otherwise  
 36 allowed by IC 36-7-4-1109, a project owner may not install or  
 37 locate a CSE system in a unit unless the project owner  
 38 demonstrates to the permit authority that the CSE system will  
 39 operate in a manner such that the sound attributable to the CSE  
 40 system will not exceed an hourly average sound level of fifty (50)  
 41 A-weighted decibels, as modeled at the outer wall of a dwelling  
 42 located on an adjacent nonparticipating property.



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

4           Sec. 17. This section applies with respect to a CSE system that  
5 is constructed or installed in a unit after June 30, 2022. Except as  
6 otherwise allowed by IC 36-7-4-1109, all damages to waterways,  
7 drainage ditches, field tiles, or other drainage related  
8 infrastructure caused by the construction, installation, or  
9 maintenance of a CSE system must be completely repaired by the  
10 project owner or remedied with the installation of new drainage  
11 infrastructure so as to not impede the natural flow of water. All  
12 repairs must be completed within a reasonable period of time and:

13           (1) to the satisfaction of the unit; and

14           (2) as stated in an applicable lease or another agreement with  
15 the landowner;

16 subject to applicable federal, state, and local drainage laws and  
17 regulations.

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

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

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

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





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

6 (A) in connection with the tenth anniversary of the start  
 7 date of the CSE system's full commercial operation; and

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

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

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

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

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

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

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

39 (1) enter the project site;

40 (2) remove the CSE system project assets;

41 (3) sell any assets removed; and

42 (4) remediate the site;



1 and may initiate proceedings to recover any costs incurred.

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

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

7 Sec. 19. (a) If a CSE system installed in a unit does not generate  
8 electricity for eighteen (18) consecutive months:

- 9 (1) the CSE system is considered abandoned as of the date  
10 that is five hundred forty (540) days after the date on which  
11 the CSE system last generated electricity; and  
12 (2) all CSE system project assets shall be removed in  
13 accordance with section 18(c) of this chapter not later than  
14 one (1) year after the date of abandonment specified in  
15 subdivision (1).

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

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

25 and may initiate proceedings to recover any costs incurred.

26 Sec. 20. (a) As used in this section, "force majeure event"  
27 includes the following:

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

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

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



1           **majeure event.**  
2           **(c) If the CSE system does not become substantially operational**  
3           **and resume generating electricity within the time set forth in**  
4           **subsection b(2):**  
5           **(1) the CSE system is considered abandoned as of the date**  
6           **that is three hundred sixty-five (365) days after the date on**  
7           **which the CSE system last generated electricity; and**  
8           **(2) all CSE system project assets shall be removed in**  
9           **accordance with section 18(c) of this chapter not later than**  
10           **one (1) year after the date of abandonment specified in**  
11           **subdivision (1).**  
12           **(d) In the case of presumed abandonment, as described in**  
13           **subsection (c), if the project owner fails to remove the CSE system**  
14           **project assets not later than one (1) year after the date of**  
15           **abandonment, as required by subsection (c)(2), the permit**  
16           **authority may engage qualified contractors to:**  
17           **(1) enter the project site;**  
18           **(2) remove the CSE system project assets;**  
19           **(3) sell any assets removed; and**  
20           **(4) remediate the site;**  
21           **and may initiate proceedings to recover any costs incurred.**



## COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred Senate Bill No. 411, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 411 as introduced.)

KOCH, Chairperson

Committee Vote: Yeas 7, Nays 1

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 SENATE MOTION

Madam President: I move that Senate Bill 411 be amended to read as follows:

Page 3, delete lines 12 through 13.

Page 3, line 14, delete "(2)" and insert "(1)".

Page 3, line 19, delete "(3)" and insert "(2)".

Page 3, line 36, delete "(4)" and insert "(3)".

Page 4, line 8, delete "develops a" and insert "**submits a commercial solar project to be approved under standards that comply with IC 8-1-42-10 through IC 8-1-42-20;**".

Page 4, delete line 9.

Page 4, delete lines 30 through 31.

Page 4, line 32, delete "(2)" and insert "(1)".

Page 4, line 37, delete "(3)" and insert "(2)".

Page 5, line 12, delete "(4)" and insert "(3)".

Page 5, line 25, delete "develops a" and insert "**submits a wind power project to be approved under standards that comply with IC 8-1-41-10 through IC 8-1-41-16;**".

Page 5, delete line 26.

Page 12, line 40, delete "a project owner may not commence construction on".

Page 12, line 41, delete "unless the wind power".

Page 12, line 42, delete "device is" and insert "**must be**".

Page 12, line 42, after "technology," insert "**unless:**".

Page 13, delete lines 1 through 3.

Page 13, line 6, delete "or".

Page 13, between lines 6 and 7, begin a new line block indented and insert:

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**"(2) the wind turbine light mitigation technology application is pending review by the appropriate federal agencies; or".**

Page 13, line 7, delete "(2)" and insert "(3)".

Page 13, line 16, delete "to near original condition" and insert "**or remedied with the installation of new drainage infrastructure**".

Page 13, line 30, after "credit," insert "**but excluding cash,**".

Page 19, line 36, delete "one hundred fifty (150)" and insert "**two hundred fifty (250)**".

Page 20, line 2, delete "outer wall of the dwelling located on" and insert "**CSE system-facing property line of**".

Page 20, line 4, delete "location;" and insert "**location that is not on the property of the nonparticipating property owner;**".

Page 21, line 9, delete "underground." and insert "**underground, as feasible.**".

Page 22, line 12, delete "to near original condition" and insert "**or remedied with the installation of new drainage infrastructure**".

Page 22, line 26, after "credit," insert "**but excluding cash,**".

(Reference is to SB 411 as printed January 25, 2022.)

MESSMER

