



February 15, 2022

ENGROSSED

SENATE BILL No. 411

DIGEST OF SB 411 (Updated February 15, 2022 1:47 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
(Continued next page)

Effective: July 1, 2022.

Messmer, Koch, Randolph Lonnie M

(HOUSE SPONSORS — SOLIDAY, MOED)

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.

January 28, 2022, engrossed.

February 1, 2022, read third time, passed. Yeas 41, nays 7.

HOUSE ACTION

February 8, 2022, read first time and referred to Committee on Utilities, Energy and Telecommunications.

February 15, 2022, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

ES 411—LS 7174/DI 101



Digest Continued

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 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.



February 15, 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.

ENGROSSED SENATE BILL No. 411

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 permitting, construction, installation,**
11 **siting, modification, operation, or decommissioning of one (1) or**
12 **more commercial solar energy systems (as defined in IC 8-1-42-2)**
13 **in a unit.**
14 **Sec. 3. As used in this chapter, "commercial solar regulation"**
15 **has the meaning set forth in IC 8-1-42-3.**

ES 411—LS 7174/DI 101



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 permitting, construction, installation, siting,
 24 modification, operation, or decommissioning of one (1) or more
 25 wind power 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 permitting, construction,
14 installation, siting, modification, operation, or
15 decommissioning of one (1) or more commercial solar energy
16 systems (as defined in 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) Except as provided in subsection (c), 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)(3), 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)(3).
- 24 **(c) The corporation may not authorize a unit to receive a**
25 **financial incentive under subsection (b) with respect to a**
26 **commercial solar project if the project owner has executed, before**
27 **July 1, 2022, a commercial power purchase agreement, or another**
28 **similar contract, for the sale and purchase of power generated by**
29 **the project.**
- 30 **Sec. 13. (a) A unit may apply to the corporation for certification**
31 **as a wind energy ready community. The application must be in a**
32 **form and manner prescribed by the corporation. The corporation**
33 **shall approve an application and certify a unit as a wind energy**
34 **ready community if the corporation determines the following:**
- 35 **(1) That the unit has adopted a wind power regulation that**
36 **includes clear standards for the permitting, construction,**
37 **installation, siting, modification, operation, or**
38 **decommissioning of one (1) or more wind power devices (as**
39 **defined in IC 8-1-41-7) in the unit.**
- 40 **(2) That the unit's wind power regulation:**
- 41 **(A) includes standards that are not more restrictive,**
42 **directly or indirectly, than the default standards for wind**



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



1 any amounts collected by the unit under this subsection after the
 2 unit's breach of the requirement for certification set forth in
 3 subsection (a)(3).

4 (c) The corporation may not authorize a unit to receive a
 5 financial incentive under subsection (b) with respect to a wind
 6 power project if the project owner has executed, before July 1,
 7 2022, a commercial power purchase agreement, or another similar
 8 contract, for the sale and purchase of power generated by the
 9 project.

10 **Sec. 14. A unit may be certified as both:**

11 (1) a commercial solar energy ready community under section
 12 12 of this chapter; and

13 (2) a wind energy ready community under section 13 of this
 14 chapter;

15 if the unit meets the requirements for certification set forth in both
 16 sections 12 and 13 of this chapter.

17 SECTION 2. IC 8-1-41 IS ADDED TO THE INDIANA CODE AS
 18 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 19 1, 2022]:

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

21 **Sec. 1. (a)** Except as provided in subsections (c) and (d), and
 22 subject to IC 36-7-4-1109 and section 9(b) of this chapter, the
 23 standards set forth in sections 10 through 16 of this chapter apply
 24 to a project owner that, after June 30, 2022, files an initial
 25 application for a project to install or locate one (1) or more wind
 26 power devices in a unit that has been certified as a wind energy
 27 ready community under IC 5-28-28.6.

28 (b) Except as provided in subsections (c) and (d), and subject to
 29 IC 36-7-4-1109 and section 9(b) of this chapter, one (1) or more
 30 particular standards set forth in sections 10 through 16 of this
 31 chapter apply to a project owner that, after June 30, 2022, files an
 32 initial application for a project to install or locate one (1) or more
 33 wind power devices in a unit that has in effect a wind power
 34 regulation that includes those particular standards at the time the
 35 project owner's initial application is filed.

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



- 1 otherwise.
- 2 (d) Unless a standard set forth in sections 10 through 16 of this
- 3 chapter is already agreed to before July 1, 2022, by the parties
- 4 involved, the standard does not:
- 5 (1) apply to any proposal, request, or application that:
- 6 (A) concerns the permitting, construction, installation,
- 7 siting, modification, operation, or decommissioning of one
- 8 (1) or more wind power devices in a unit;
- 9 (B) is submitted by a project owner to a unit before July 1,
- 10 2022; and
- 11 (C) is pending approval or has been approved as of July 1,
- 12 2022;
- 13 as set forth in IC 36-7-4-1109;
- 14 (2) affect the:
- 15 (A) permitting;
- 16 (B) construction;
- 17 (C) installation;
- 18 (D) siting;
- 19 (E) modification;
- 20 (F) operation; or
- 21 (G) decommissioning;
- 22 of one (1) or more wind power devices in a unit that before
- 23 July 1, 2022, has approved such permitting, construction,
- 24 installation, siting, modification, operation, or
- 25 decommissioning; or
- 26 (3) affect any:
- 27 (A) economic development agreement; or
- 28 (B) other agreement;
- 29 entered into before July 1, 2022, with respect to the
- 30 permitting, construction, installation, siting, modification,
- 31 operation, or decommissioning of one (1) or more wind power
- 32 devices in one (1) or more units.
- 33 Sec. 2. As used in this chapter, "dwelling" means any building,
- 34 structure, or part of a building or structure that is occupied as, or
- 35 is designed or intended for occupancy as, a residence by one (1) or
- 36 more families or individuals.
- 37 Sec. 3. (a) As used in this chapter, "nonparticipating property"
- 38 means a lot or parcel of real property:
- 39 (1) that is not owned by a project owner; and
- 40 (2) with respect to which:
- 41 (A) the project owner does not seek:
- 42 (i) to install or locate one (1) or more wind power devices



1 or other facilities related to a wind power project
 2 (including power lines, temporary or permanent access
 3 roads, or other temporary or permanent infrastructure);
 4 or

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

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

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

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

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 wind power project through a**
 21 **neighbor agreement, a participation agreement, or another similar**
 22 **arrangement or agreement with a project owner.**

23 **Sec. 4. (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 **permitting, construction, installation, siting, modification,**
 29 **operation, or decommissioning of wind power devices 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. 5. (a) As used in this chapter, "project owner" means a**
 36 **person that:**

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

39 **(2) owns one (1) or more wind power devices 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. 6. (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. 7. 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. 8. 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 permitting,**
 37 **construction, installation, siting, modification, operation, or**
 38 **decommissioning of wind power devices in the unit.**

39 **Sec. 9. (a) A permit authority for a unit described in section 1(a)**
 40 **or 1(b) of this chapter is responsible for enforcing compliance with**
 41 **any standards set forth in sections 10 through 16 of this chapter**
 42 **that apply in the unit under section 1(a) or 1(b) of this chapter.**



- 1 **(b) A unit may:**
- 2 **(1) adopt and enforce a wind power regulation that includes**
- 3 **standards that:**
- 4 **(A) concern the permitting, construction, installation,**
- 5 **siting, modification, operation, or decommissioning of**
- 6 **wind power devices in the unit; and**
- 7 **(B) are less restrictive than the standards set forth in this**
- 8 **chapter;**
- 9 **(2) waive or make less restrictive any standard set forth in**
- 10 **this chapter with respect to any particular:**
- 11 **(A) wind power device; or**
- 12 **(B) project to install one (1) or more wind power devices in**
- 13 **the unit; or**
- 14 **(3) waive or make less restrictive any standard that is not set**
- 15 **forth in this chapter but that is included in a wind power**
- 16 **regulation adopted by the unit with respect to any particular:**
- 17 **(A) wind power device; or**
- 18 **(B) project to install one (1) or more wind power devices in**
- 19 **the unit.**
- 20 **(c) This chapter does not affect a unit's planning and zoning**
- 21 **powers under IC 36-7 with respect to the permitting, construction,**
- 22 **installation, or siting of one (1) or more wind power devices in the**
- 23 **unit.**
- 24 **Sec. 10. (a) Subject to subsection (h), and except as otherwise**
- 25 **allowed by IC 36-7-4-1109, a project owner may not install or**
- 26 **locate a wind power device on property in a unit unless the**
- 27 **distance, measured as a straight line, from the vertical centerline**
- 28 **of the base of the wind power device to:**
- 29 **(1) the centerline of any:**
- 30 **(A) runway located on a public use airport, private use**
- 31 **airport, or municipal airport;**
- 32 **(B) public use highway, street, or road; or**
- 33 **(C) railroad easement or right-of-way; or**
- 34 **(2) the property line of any nonparticipating property;**
- 35 **is equal to a distance that is at least one and one-tenth (1.1) times**
- 36 **the wind power device's blade tip height, as measured from the**
- 37 **ground to the tip of the blade.**
- 38 **(b) Subject to subsection (h), and except as otherwise allowed by**
- 39 **IC 36-7-4-1109, a project owner may not install or locate a wind**
- 40 **power device on property in a unit unless the distance, measured**
- 41 **as a straight line, from the vertical centerline of the base of the**
- 42 **wind power device to the nearest point on the outer wall of a**



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

5 (c) 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 nearest edge of the right-of-way for any utility transmission or
10 distribution line is equal to a distance that is at least one and
11 two-tenths (1.2) times the wind power device's blade tip height, as
12 measured from the ground to the tip of the blade.

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

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

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

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

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



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

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

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

13 (2) the wind power device has been designed such that
 14 industry standard computer modeling indicates that any
 15 dwelling on a nonparticipating property within the unit will
 16 not experience more than thirty (30) hours per year of shadow
 17 flicker under planned operating conditions for the wind
 18 power device.

19 (b) After a project owner installs or locates a wind power device
 20 in a unit, the project owner shall work with the owner of any
 21 affected dwelling on a nonparticipating property to mitigate the
 22 effects of shadow flicker to the extent reasonably practicable.

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

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

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

36 Sec. 13. (a) Subject to subsection (b), and except as otherwise
 37 allowed by IC 36-7-4-1109, a project owner may not install or
 38 locate a wind power device in a unit unless the project owner
 39 demonstrates to the permit authority that the wind power device
 40 will operate in a manner such that the sound attributable to the
 41 wind power device will not exceed an hourly average sound level
 42 of fifty (50) A-weighted decibels, as modeled at the outer wall of an



1 affected dwelling.

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

5 Sec. 14. (a) As used in this section, "wind turbine light
6 mitigation technology" means any technology used in connection
7 with a wind power device to shield, limit, or otherwise mitigate the
8 amount, intensity, character, or visibility of light emitted from the
9 wind power device.

10 (b) Except as otherwise allowed by IC 36-7-4-1109, after
11 January 1, 2023, and to the extent permissible under federal law or
12 regulations, a wind power device on property in a unit must be
13 equipped with a wind turbine light mitigation technology, unless:

14 (1) the Federal Aviation Administration denies the project
15 owner's application to use a wind turbine light mitigation
16 technology;

17 (2) the wind turbine light mitigation technology application is
18 pending review by the appropriate federal agencies; or

19 (3) the project owner determines that the use of a wind
20 turbine light mitigation technology is not economically
21 feasible.

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

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

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

35 subject to applicable federal, state, and local drainage laws and
36 regulations.

37 Sec. 16. (a) Subject to subsection (b), and except as otherwise
38 allowed by IC 36-7-4-1109, a project owner may not install or
39 locate a wind power device in a unit unless the project owner
40 submits to the permit authority a decommissioning and site
41 restoration plan, and posts a surety bond, or an equivalent means
42 of security acceptable to the permit authority, including a parent



1 company guarantee or an irrevocable letter of credit, but excluding
2 cash, in an amount equal to the estimated cost of decommissioning
3 the wind power device, as calculated by a third party licensed or
4 registered engineer, or by another person with suitable experience
5 in the decommissioning of wind power devices, as agreed upon by
6 the project owner and the permit authority. The required bond or
7 other security shall be posted in increments such that the total
8 amount of the bond or security posted is as follows:

9 (1) An amount equal to twenty-five percent (25%) of the total
10 estimated decommissioning costs not later than the start date
11 of the wind power device's full commercial operation. For
12 purposes of this subdivision, the total estimated
13 decommissioning costs shall be reevaluated by a third party
14 licensed or registered engineer (or by another person with
15 suitable experience in the decommissioning of wind power
16 devices, as agreed upon by the project owner and the permit
17 authority) in connection with the:

18 (A) fifth anniversary; and

19 (B) tenth anniversary;

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

24 (2) An amount equal to fifty percent (50%) of the total
25 estimated decommissioning costs not later than the fifteenth
26 anniversary of the start date of the wind power device'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 wind power devices, as agreed upon by the project owner and
32 the permit authority) in connection with the fifteenth
33 anniversary of the start date of the wind power device's full
34 commercial operation, and the total amount of the bond or
35 security posted under this subdivision shall be adjusted as
36 necessary after the reevaluation.

37 (3) An amount equal to one hundred percent (100%) of the
38 total estimated decommissioning costs not later than the
39 twentieth anniversary of the start date of the wind power
40 device's full commercial operation. For purposes of this
41 subdivision, the total estimated decommissioning costs shall
42 be reevaluated by a third party licensed or registered



1 engineer (or by another person with suitable experience in the
 2 decommissioning of wind power devices, as agreed upon by
 3 the project owner and the permit authority):

4 (A) in connection with the twentieth anniversary of the
 5 start date of the wind power device's full commercial
 6 operation; and

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

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

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

22 SECTION 3. IC 8-1-42 IS ADDED TO THE INDIANA CODE AS
 23 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 24 1, 2022]:

25 **Chapter 42. Default Standards for Commercial Solar Energy**
 26 **Systems**

27 **Sec. 1. (a)** Except as provided in subsections (c) and (d), and
 28 subject to IC 36-7-4-1109 and section 9(b) of this chapter, the
 29 standards set forth in sections 10 through 20 of this chapter apply
 30 to a project owner that, after June 30, 2022, files an initial
 31 application for a project to install or locate one (1) or more CSE
 32 systems in a unit that has been certified as a commercial solar
 33 energy ready community under IC 5-28-28.6.

34 (b) Except as provided in subsections (c) and (d), and subject to
 35 IC 36-7-4-1109 and section 9(b) of this chapter, one (1) or more
 36 particular standards set forth in sections 10 through 20 of this
 37 chapter apply to a project owner that, after June 30, 2022, files an
 38 initial application for a project to install or locate one (1) or more
 39 CSE systems in a unit that has in effect a commercial solar
 40 regulation that includes those particular standards at the time the
 41 project owner's initial application is filed.

42 (c) Subject to a unit's planning and zoning powers under



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

8 (d) Unless a standard set forth in sections 10 through 20 of this
 9 chapter is already agreed to before July 1, 2022, by the parties
 10 involved, the standard does not:

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

12 (A) concerns the permitting, construction, installation,
 13 siting, modification, operation, or decommissioning of one

14 (1) or more CSE systems in a unit;

15 (B) is submitted by a project owner to a unit before July 1,
 16 2022; and

17 (C) is pending approval or has been approved as of July 1,
 18 2022;

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

20 (2) affect the:

21 (A) permitting;

22 (B) construction;

23 (C) installation;

24 (D) siting;

25 (E) modification;

26 (F) operation; or

27 (G) decommissioning;

28 of one (1) or more CSE systems in a unit that before July 1,
 29 2022, has approved such permitting, construction,
 30 installation, siting, modification, operation, or
 31 decommissioning; or

32 (3) affect any:

33 (A) economic development agreement; or

34 (B) other agreement;

35 entered into before July 1, 2022, with respect to the
 36 permitting, construction, installation, siting, modification,
 37 operation, or decommissioning of one (1) or more CSE
 38 systems in one (1) or more units.

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

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



- 1 **(2) captures and converts solar energy into electricity:**
- 2 **(A) for the purpose of selling the electricity at wholesale;**
- 3 **and**
- 4 **(B) for use in locations other than where it is generated.**
- 5 **(b) The term includes solar panels, collection and feeder lines,**
- 6 **generation tie lines, substations, ancillary buildings, solar**
- 7 **monitoring stations, and accessory equipment or structures.**
- 8 **Sec. 3. As used in this chapter, "commercial solar regulation"**
- 9 **refers to any ordinance or regulation, including any:**
- 10 **(1) zoning or land use ordinance or regulation; or**
- 11 **(2) general or specific planning ordinance or regulation;**
- 12 **that is adopted by a unit and that concerns the permitting,**
- 13 **construction, installation, siting, modification, operation, or**
- 14 **decommissioning of CSE systems in the unit.**
- 15 **Sec. 4. As used in this chapter, "dwelling" means any building,**
- 16 **structure, or part of a building or structure that is occupied as, or**
- 17 **is designed or intended for occupancy as, a residence by one (1) or**
- 18 **more families or individuals.**
- 19 **Sec. 5. (a) As used in this chapter, "nonparticipating property"**
- 20 **means a lot or parcel of real property:**
- 21 **(1) that is not owned by a project owner; and**
- 22 **(2) with respect to which:**
- 23 **(A) the project owner does not seek:**
- 24 **(i) to install or locate one (1) or more CSE systems or**
- 25 **other facilities related to a CSE system project (including**
- 26 **power lines, temporary or permanent access roads, or**
- 27 **other temporary or permanent infrastructure); or**
- 28 **(ii) to otherwise enter into a lease or any other**
- 29 **agreement with the owner of the property for use of all**
- 30 **or part of the property in connection with a CSE system**
- 31 **project; or**
- 32 **(B) the owner of the property does not consent:**
- 33 **(i) to having one (1) or more CSE systems or other**
- 34 **facilities related to a CSE system project (including**
- 35 **power lines, temporary or permanent access roads, or**
- 36 **other temporary or permanent infrastructure) installed**
- 37 **or located; or**
- 38 **(ii) to otherwise enter into a lease or any other**
- 39 **agreement with the project owner for use of all or part**
- 40 **of the property in connection with a CSE system project.**
- 41 **(b) The term does not include a lot or parcel of real property**
- 42 **otherwise described in subsection (a) if the owner of the lot or**



1 parcel consents to participate in a CSE system project through a
 2 neighbor agreement, a participation agreement, or another similar
 3 arrangement or agreement with a project owner.

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

5 (1) a unit; or

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

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

11 (b) The term does not include:

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

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

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

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

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

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

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

25 Sec. 8. (a) As used in this chapter, "unit" refers to:

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

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

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

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

34 (2) a municipality, if:

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

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

40 (b) The term refers to:

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



1 the project owner seeks to locate CSE systems in more than
 2 one (1) county as part of a single CSE system project or
 3 development; and

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

9 **Sec. 9. (a) A permit authority for a unit described in section 1(a)
 10 or 1(b) of this chapter is responsible for enforcing compliance with
 11 any standards set forth in sections 10 through 20 of this chapter
 12 that apply in the unit under section 1(a) or 1(b) of this chapter.**

13 **(b) A unit may:**

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

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

19 **(B) are less restrictive than the standards set forth in this
 20 chapter;**

21 **(2) waive or make less restrictive any standard set forth in
 22 this chapter with respect to any particular:**

23 **(A) CSE system; or**

24 **(B) project to install one (1) or more CSE systems in the
 25 unit; or**

26 **(3) waive or make less restrictive any standard that is not set
 27 forth in this chapter but that is included in a commercial solar
 28 regulation adopted by the unit with respect to any particular:**

29 **(A) CSE system; or**

30 **(B) project to install one (1) or more CSE systems in the
 31 unit.**

32 **(c) This chapter does not affect a unit's planning and zoning
 33 powers under IC 36-7 with respect to the permitting, construction,
 34 installation, or siting of one (1) or more CSE systems in the unit.**

35 **Sec. 10. (a) Subject to subsection (e), and except as otherwise
 36 allowed by IC 36-7-4-1109, a project owner may not install or
 37 locate a CSE system on property in a unit unless the distance,
 38 measured as a straight line, from the nearest outer edge of the CSE
 39 system's solar panels to:**

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

41 **(A) federal interstate highway, federal highway, state
 42 highway, or county highway is at least forty (40) feet;**



1 **(B) collector road is at least thirty (30) feet; or**
2 **(C) local road is at least ten (10) feet; or**
3 **(2) the property line of any nonparticipating property is at**
4 **least fifty (50) feet.**
5 **(b) Subject to subsection (e), and except as otherwise allowed by**
6 **IC 36-7-4-1109, a project owner may not install or locate a CSE**
7 **system on property in a unit unless the distance, measured as a**
8 **straight line, from the nearest outer edge of the CSE system's solar**
9 **panels to the nearest point on the outer wall of a dwelling located**
10 **on a nonparticipating property is at least two hundred fifty (250)**
11 **feet.**
12 **(c) Subject to subsection (e), and except as otherwise allowed by**
13 **IC 36-7-4-1109, if a project owner installs a CSE system within a**
14 **distance of two hundred fifty (250) feet, measured as a straight**
15 **line, from the nearest outer edge of the CSE system's solar panels**
16 **to the nearest point on the outer wall of a dwelling located on a**
17 **nonparticipating property, the project owner shall install a**
18 **landscape buffer in the area between the nearest outer edge of the**
19 **CSE system's solar panels and the nonparticipating property**
20 **owner's property line that faces the CSE system's solar panels. The**
21 **landscape buffer must be:**
22 **(1) in a location that is not on the property of the**
23 **nonparticipating property owner; and**
24 **(2) constructed from such materials;**
25 **as set forth in a plan submitted to the unit during the permitting**
26 **and approval process for the CSE system.**
27 **(d) Except as otherwise allowed by IC 36-7-4-1109, a project**
28 **owner may not install or locate a CSE system on property in a unit**
29 **unless the height of the CSE system solar panels are not more than**
30 **twenty-five (25) feet above ground level when the CSE system's**
31 **arrays are at full tilt. However, a permit authority or a unit may**
32 **not impose a clearance requirement between the ground and the**
33 **bottom edge of a CSE system's solar panels.**
34 **(e) The:**
35 **(1) distance requirements set forth in subsection (a)(2) and**
36 **subsection (b); and**
37 **(2) requirement for the installation of a landscape buffer set**
38 **forth in subsection (c);**
39 **may be waived with respect to the siting of any one (1) CSE system,**
40 **subject to the written consent of the owner of each affected**
41 **nonparticipating property.**
42 **Sec. 11. Except as otherwise allowed by IC 36-7-4-1109, if a**



1 project owner installs a CSE system in a unit, the project owner
 2 shall plant, establish, and maintain for the life of the CSE system
 3 perennial vegetated ground cover on the ground around and under
 4 solar panels, and in project site buffer areas. The use of pollinator
 5 seed mixes in the planting of ground cover required by this section
 6 is encouraged. A unit or permit authority may require a project
 7 owner to prepare for a project site a vegetation plan that:

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

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

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

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

20 Sec. 12. 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 completely enclose the CSE system with fencing that is at
 23 least six (6) feet high.

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

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



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

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

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

- 9 **(1) television signals;**
 10 **(2) microwave signals;**
 11 **(3) agricultural global positioning systems;**
 12 **(4) military defense radar;**
 13 **(5) radio reception; or**
 14 **(6) weather and doppler radar.**

15 **Sec. 16. (a) Subject to subsection (b), and except as otherwise**
 16 **allowed by IC 36-7-4-1109, a project owner may not install or**
 17 **locate a CSE system in a unit unless the project owner**
 18 **demonstrates to the permit authority that the CSE system will**
 19 **operate in a manner such that the sound attributable to the CSE**
 20 **system will not exceed an hourly average sound level of fifty (50)**
 21 **A-weighted decibels, as modeled at the outer wall of a dwelling**
 22 **located on an adjacent nonparticipating property.**

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

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

- 35 **(1) to the satisfaction of the unit; and**
 36 **(2) as stated in an applicable lease or another agreement with**
 37 **the landowner;**

38 **subject to applicable federal, state, and local drainage laws and**
 39 **regulations.**

40 **Sec. 18. (a) Subject to subsection (b), and except as otherwise**
 41 **allowed by IC 36-7-4-1109, a project owner may not install or**
 42 **locate a CSE system in a unit unless the project owner submits to**



1 the permit authority a decommissioning and site restoration plan,
2 and posts a surety bond, or an equivalent means of security
3 acceptable to the permit authority, including a parent company
4 guarantee or an irrevocable letter of credit, but excluding cash, in
5 an amount equal to the estimated cost of decommissioning the CSE
6 system, as calculated by a third party licensed or registered
7 engineer or by another person with suitable experience in the
8 decommissioning of CSE systems, as agreed upon by the project
9 owner and the permit authority. The required bond or other
10 security shall be posted in increments such that the total amount of
11 the bond or security posted is as follows:

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

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

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

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

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

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

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



1 project owner agree to include any such value in the estimated cost.

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

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

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

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

19 (1) enter the project site;

20 (2) remove the CSE system project assets;

21 (3) sell any assets removed; and

22 (4) remediate the site;

23 and may initiate proceedings to recover any costs incurred.

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

26 (1) the location and condition of the assets conform with local
27 regulations at the time of decommissioning; and

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

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

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

34 (2) all CSE system project assets shall be removed in
35 accordance with section 18(c) of this chapter not later than
36 one (1) year after the date of abandonment specified in
37 subdivision (1).

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



1 (1) enter the project site;
 2 (2) remove the CSE system project assets;
 3 (3) sell any assets removed; and
 4 (4) remediate the site;
 5 and may initiate proceedings to recover any costs incurred.

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

8 (1) Fire, flood, tornado, or other natural disasters or acts of
 9 God.

10 (2) War, civil strife, a terrorist attack, or other similar acts of
 11 violence.

12 (3) Other unforeseen events or events over which a project
 13 owner has no control.

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

16 (1) as soon as practicable after the occurrence of the force
 17 majeure event, provide notice to the permit authority of the
 18 event and of the resulting cessation of generating operations;
 19 and

20 (2) demonstrate to the permit authority that the CSE system
 21 will be substantially operational and generating electricity not
 22 later than twelve (12) months after the occurrence of the force
 23 majeure event.

24 **(c) If the CSE system does not become substantially operational**
 25 **and resume generating electricity within the time set forth in**
 26 **subsection (b)(2):**

27 (1) the CSE system is considered abandoned as of the date
 28 that is three hundred sixty-five (365) days after the date on
 29 which the CSE system last generated electricity, unless the
 30 project owner demonstrates to the permit authority that the
 31 project owner is using all commercially reasonable efforts to
 32 resume generation; and

33 (2) all CSE system project assets shall be removed in
 34 accordance with section 18(c) of this chapter not later than
 35 one (1) year after the date of abandonment specified in
 36 subdivision (1).

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

42 (1) enter the project site;



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

 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:

ES 411—LS 7174/DI 101



"(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

COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities, Energy and Telecommunications, to which was referred Senate Bill 411, 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 1, line 10, after "the" insert **"permitting,"**.

Page 2, line 23, after "the" insert **"permitting,"**.

Page 3, line 13, after "the" insert **"permitting,"**.

Page 4, line 3, delete "If:" and insert **"Except as provided in subsection (c), if:"**.

Page 4, line 19, delete "(a)(4)," and insert **"(a)(3),"**.

Page 4, line 23, delete "(a)(4)." and insert **"(a)(3)."**.

Page 4, between lines 23 and 24, begin a new paragraph and insert:
"(c) The corporation may not authorize a unit to receive a financial incentive under subsection (b) with respect to a commercial solar project if the project owner has executed, before July 1, 2022, a commercial power purchase agreement, or another



similar contract, for the sale and purchase of power generated by the project."

Page 4, line 30, after "the" insert "**permitting,**".

Page 5, line 19, delete "If:" and insert "**Except as provided in subsection (c), if:**".

Page 5, line 34, delete "(a)(4)," and insert "**(a)(3),**".

Page 5, line 39, delete "(a)(4)." and insert "**(a)(3).**".

Page 5, between lines 39 and 40, begin a new paragraph and insert:
"(c) The corporation may not authorize a unit to receive a financial incentive under subsection (b) with respect to a wind power project if the project owner has executed, before July 1, 2022, a commercial power purchase agreement, or another similar contract, for the sale and purchase of power generated by the project."

Page 6, line 10, after "to" insert "**IC 36-7-4-1109 and**".

Page 6, line 12, delete "submits an initial request" and insert "**files an initial application**".

Page 6, line 16, after "to" insert "**IC 36-7-4-1109 and**".

Page 6, line 19, delete "that submits an initial request" and insert "**that, after June 30, 2022, files an initial application**".

Page 6, line 22, delete "request is" and insert "**application is filed.**".

Page 6, delete line 23.

Page 6, line 29, delete "or".

Page 6, line 30, delete "feed-in-tariff".

Page 6, line 32, delete "A" and insert "**Unless a**".

Page 6, line 33, delete "does not apply to any of the following, unless the standard".

Page 6, line 34, delete "involved:" and insert "**involved, the standard does not:**".

Page 6, line 35, delete "Any" and insert "**apply to any**".

Page 6, line 36, after "the" insert "**permitting,**".

Page 6, line 41, after "pending" insert "**approval or has been approved**".

Page 6, line 42, delete "IC 36-7-4-1109." and insert "**IC 36-7-4-1109;**".

Page 7, line 1, delete "The:" and insert "**affect the:**".

Page 7, between lines 1 and 2, begin a new line double block indented and insert:

"(A) permitting;".

Page 7, line 2, delete "(A)" and insert "**(B)**".

Page 7, line 3, delete "(B)" and insert "**(C)**".

Page 7, line 4, delete "(C)" and insert "**(D)**".



- Page 7, line 5, delete "(D)" and insert "(E)".
- Page 7, line 6, delete "(E)" and insert "(F)".
- Page 7, line 7, delete "(F)" and insert "(G)".
- Page 7, line 9, after "such" insert "**permitting,**".
- Page 7, line 10, delete "decommissioning." and insert "**decommissioning; or**".
- Page 7, line 11, delete "Any:" and insert "**affect any:**".
- Page 7, line 14, after "the" insert "**permitting,**".
- Page 8, line 12, after "the" insert "**permitting,**".
- Page 9, line 21, after "the" insert "**permitting,**".
- Page 9, line 31, after "the" insert "**permitting,**".
- Page 10, line 6, delete "installation" and insert "**permitting, construction, installation,**".
- Page 11, line 20, delete "siting or construction" and insert "**permitting, construction, installation, or siting**".
- Page 15, line 11, delete "(b) and (c)," and insert "**(c) and (d),**".
- Page 15, line 12, after "to" insert "**IC 36-7-4-1109 and**".
- Page 15, line 14, delete "submits an initial request" and insert "**files an initial application**".
- Page 15, line 18, after "to" insert "**IC 36-7-4-1109 and**".
- Page 15, line 21, delete "that submits an initial request" and insert "**that, after June 30, 2022, files an initial application**".
- Page 15, line 24, delete "request is" and insert "**application is filed.**".
- Page 15, delete line 25.
- Page 15, line 32, delete "or feed-in-tariff".
- Page 15, line 34, delete "A" and insert "**Unless a**".
- Page 15, line 35, delete "does not apply to any of the following, unless the standard".
- Page 15, line 36, delete "involved:" and insert "**involved, the standard does not:**".
- Page 15, line 37, delete "Any" and insert "**apply to any**".
- Page 15, line 38, after "the" insert "**permitting,**".
- Page 16, line 1, after "pending" insert "**approval or has been approved**".
- Page 16, line 2, delete "IC 36-7-4-1109." and insert "**IC 36-7-4-1109;**".
- Page 16, line 3, delete "The:" and insert "**affect the:**".
- Page 16, between lines 3 and 4, begin a new line double block indented and insert:
"(A) permitting;".
- Page 16, line 4, delete "(A)" and insert "(B)".



- Page 16, line 5, delete "(B)" and insert "(C)".
- Page 16, line 6, delete "(C)" and insert "(D)".
- Page 16, line 7, delete "(D)" and insert "(E)".
- Page 16, line 8, delete "(E)" and insert "(F)".
- Page 16, line 9, delete "(F)" and insert "(G)".
- Page 16, line 11, after "such" insert "**permitting,**".
- Page 16, line 12, delete "decommissioning." and insert "**decommissioning; or**".
- Page 16, line 13, delete "Any:" and insert "**affect any:**".
- Page 16, line 16, after "the" insert "**permitting,**".
- Page 16, line 28, after "includes" insert "**solar panels,**".
- Page 16, line 35, after "the" insert "**permitting,**".
- Page 17, line 31, after "the" insert "**permitting,**".
- Page 18, line 39, after "the" insert "**permitting,**".
- Page 19, line 14, delete "installation" and insert "**permitting, construction, installation,**".
- Page 19, line 20, delete "system" and insert "**system's solar panels**".
- Page 19, line 31, delete "system" and insert "**system's solar panels**".
- Page 19, line 37, delete "system" and insert "**system's solar panels**".
- Page 19, line 40, delete "system and the" and insert "**system's solar panels and the nonparticipating property owner's property line that faces the CSE system's solar panels. The landscape buffer must be:**".
- Page 19, delete line 41.
- Page 25, line 4, delete "b(2):" and insert "**(b)(2):**".
- Page 25, line 7, delete "electricity;" and insert "**electricity, unless the project owner demonstrates to the permit authority that the project owner is using all commercially reasonable efforts to resume generation;**".

and when so amended that said bill do pass.

(Reference is to SB 411 as reprinted January 28, 2022.)

SOLIDAY

Committee Vote: yeas 10, nays 0.

