



2023 ASSEMBLY BILL 1165

March 22, 2024 - Introduced by Representatives TRANEL, NOVAK, SCHUTT, ROZAR, SCHMIDT and JACOBSON, cosponsored by Senators BALLWEG and COWLES. Referred to Committee on Energy and Utilities.

AN ACT *to renumber and amend* 114.135 (7); and *to create* 114.135 (7) (a), 114.135 (7) (b) 3. and 114.135 (7) (d) of the statutes; **relating to:** the installation of light-mitigating technology systems on certain wind energy systems and high-voltage transmission line towers.

Analysis by the Legislative Reference Bureau

This bill imposes lighting requirements on certain wind energy systems and high-voltage transmission line towers. Under the bill, these structures must have a light-mitigating technology system (LMTS) installed; an LMTS is triggered by aircraft detection or otherwise reduces the impact of lighting necessary to make tall structures conspicuous to aircraft to avoid collisions.

The bill applies to wind energy systems and high-voltage transmission line towers that meet the criteria for which construction or alteration would be subject to Federal Aviation Administration notice requirements, including a structure that is more than 200 feet above ground level (utility structures). Under current law, "wind energy system" is defined as equipment and associated facilities that convert and then store or transfer energy from the wind into usable forms of energy.

Current law prohibits the erection of any building, structure, tower, or other object that exceeds specified heights without a permit issued by the Department of Transportation (height permit). The bill extends this height permit requirement to

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any utility structure. However, DOT may not issue a height permit for a utility structure unless the applicant has received FAA approval to install an LMTS on the utility structure, and the height permit includes as a condition that the applicant install the LMTS no later than 24 months after issuance of the permit. Current DOT rules implementing height permits govern enforcement of height permit requirements and conditions, including penalties and possible revocation.

The bill requires that, beginning on July 1, 2026, with respect to a utility structure for which a height permit was not required when erected, the owner must apply for a height permit no later than July 1, 2028. Also, under the bill, beginning on July 1, 2026, if a height permit was issued for a utility structure before the effective date of the bill, DOT must amend the permit to include as a condition that the owner, no later than 24 months after the permit is amended, install an LMTS and provide documentation that the FAA approved the installation. The bill requires DOT to provide notice to the owner no later than 30 days prior to amending the permit.

The bill requires that DOT issue a notice on its website if the FAA notice requirements are amended to apply to shorter structures and requires the owner of a structure that becomes a utility structure because of this change to apply for a height permit within a specified period.

With respect to an existing utility structure that is a high-voltage transmission line tower for which a height permit was not required when erected or for which a height permit was issued when erected, if the FAA does not approve the installation of an LMTS, the bill requires the owner to provide documentation of this to the secretary of transportation. Upon receipt of this documentation, the bill provides that the permit may not include the condition that an LMTS be installed on the structure. Instead, the bill requires the secretary of transportation to include in the permit a condition that the owner install on the utility structure a lighting system that minimizes the duration or intensity of the lighting system while maintaining full compliance with FAA lighting standards.

The bill requires that a person be approved by FAA to install an LMTS on a utility structure. The bill specifies that a person who is selected to install an LMTS on a utility structure as required under the bill must provide notice to DOT and to the city, village, or town in which the utility structure is located of the progress of the installation. If the installation is delayed beyond the 24-month installation requirement, the bill requires the installer to provide an update on the reasons for the delay and the current status of the installation to DOT and the city, village, or town at least every three months. The bill allows DOT to establish policies and procedures to set a uniform schedule for submitting these notices and updates.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

ASSEMBLY BILL 1165**SECTION 1**

SECTION 1. 114.135 (7) of the statutes is renumbered 114.135 (7) (b) (intro.) and amended to read:

114.135 (7) (b) (intro.) For the purposes of sub. (6), the power and authority to control the erection of buildings, structures, towers, and other objects by the secretary of transportation shall be limited to ~~these objects~~ all of the following:

1. An object that would ~~either~~ extend to a height of more than 500 feet above the ground or surface of the water within one mile of the location of the object, ~~or,~~

2. An object that would extend above a height determined by the ratio of one foot vertical to 40 feet horizontal measured from the nearest boundary of the nearest public airport or spaceport within the state; ~~however, this.~~

(c) The power and authority under par. (b) shall not extend to objects of less than 150 feet in height above the ground or water level at the location of the object or to objects located within areas zoned under s. 114.136 or to objects located within areas zoned under s. 62.23 (7) where the zoning ordinance enacted under said subsection controls the height of structures.

SECTION 2. 114.135 (7) (a) of the statutes is created to read:

114.135 (7) (a) In this subsection:

1. “High-voltage transmission line tower” means a tower used to support a high-voltage transmission line, as defined in s. 196.491 (1) (f).

2. “Light-mitigating technology system” means aircraft detection lighting or any other comparable system capable of reducing the impact of obstruction lighting while maintaining conspicuity sufficient to assist aircraft in identifying and avoiding collision with a structure.

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3. “Utility structure” means a high-voltage transmission line tower or a wind energy system that meets the criteria that would require submittal of a notice to the federal aviation administration under 14 CFR 77.9.

4. “Wind energy system” has the meaning given in s. 66.0403 (1) (m).

SECTION 3. 114.135 (7) (b) 3. of the statutes is created to read:

114.135 (7) (b) 3. A utility structure.

SECTION 4. 114.135 (7) (d) of the statutes is created to read:

114.135 (7) (d) 1. Except as provided in subd. 3m., the secretary may not issue a permit under sub. (6) for a utility structure under par. (b) 3. unless the applicant has received federal aviation administration approval to install a light-mitigating technology system on the utility structure, and the permit under sub. (6) includes as a condition that the applicant install the light-mitigating technology system no later than 24 months after issuance of the permit.

2. Beginning on July 1, 2026, all of the following apply to an owner of a utility structure that was erected before the effective date of this subdivision [LRB inserts date]:

a. Except as provided in subd. 3m., a utility structure for which no permit under sub. (6) was previously required, the owner shall apply for a permit from the secretary no later than July 1, 2028, and issuance of the permit is subject to subd. 1.

b. Except as provided in subd. 3m., for a utility structure for which a permit under sub. (6) was previously issued, the secretary shall amend the permit to include the condition under subd. 1. and to require that the owner, no later than 24 months after the permit is amended, provide documentation to the secretary that

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the owner has received federal aviation administration approval to install the light-mitigating technology system on the utility structure. The secretary shall provide notice to the owner of this amendment no later than 30 days prior to amending the permit.

3. If the regulation under 14 CFR 77.9 is amended to lower the height at which the notice to the federal aviation administration is required, the department shall post notice of this change on its website. The owner of a structure that becomes a utility structure because of this change shall apply for a permit under sub. (6) from the secretary no later than the first day of the 24th month beginning after the department provides notice of this change, and, except as provided in subd. 3m., issuance of the permit is subject to subd. 1.

3m. If a utility structure under subd. 2. a. or b. or 3. is a high-voltage transmission line tower and the federal aviation administration denies the owner's request to install a light-mitigating technology system, the owner shall provide documentation of this denial to the secretary. Upon receipt of this documentation, one of the following applies:

a. For a utility structure under subd. 2. a. or 3., the secretary may not include in the permit under sub. (6) the condition under subd. 1. that the applicant install the light-mitigating technology system. Instead, the secretary shall include in the permit a condition that the owner install on the utility structure, no later than 24 months after the permit is issued, a lighting system that minimizes the duration or intensity of the lighting system while maintaining full compliance with the lighting

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standards established in chapter 13 of the federal aviation administration's Advisory Circular 70/760-1, Obstruction Marking and Lighting, as updated.

b. For a utility structure under subd. 2. b., the secretary shall amend the permit issued under sub. (6) for the utility structure to remove the condition under subd. 1. and replace it with a condition that the owner install on the utility structure, no later than 24 months after the permit is amended under this subd. 3m. b. a lighting system that minimizes the duration or intensity of the lighting system while maintaining full compliance with the lighting standards established in chapter 13 of the federal aviation administration's Advisory Circular 70/760-1, Obstruction Marking and Lighting, as updated.

4. No person may install a light-mitigating technology system on a utility structure unless the person is approved by the federal aviation administration to perform that installation. A person who is selected to install a light-mitigating technology system on a utility structure required under subd. 1. or 2. shall provide notice to the department and to the city, village, or town in which the utility structure is located, in the form and manner prescribed by the department, of the progress of the installation. If the installation is delayed beyond the 24-month installation requirement under subd. 1. or 2. b., the installer shall provide an update to the department and to the city, village, or town in which the utility structure is located on the reasons for the delay and the current status of the installation to the department not less than once every 3 months. The department

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may establish policies and procedures to set a uniform schedule for submitting notice and updates pursuant to this subdivision.

(END)