



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-5689/1
SWB&EHS:amn&klm

2023 ASSEMBLY BILL 1169

March 22, 2024 - Introduced by Representatives SCHUTT, BODDEN, BEHNKE, GOEBEN, GREEN, GUNDRUM, HURD, KRUG, MAXEY, MURSAU, PENTERMAN, RETTINGER, SCHMIDT, TRANEL, WICHGERS and EDMING, cosponsored by Senators TOMCZYK, FELZKOWSKI, JACQUE, MARKLEIN and WANGGAARD. Referred to Committee on Energy and Utilities.

AN ACT *to amend* 66.0401 (1m) (intro.); and *to create* 66.0401 (1r), 66.0401 (4)

(h), 196.49 (4m) and 196.491 (3) (d) 9. of the statutes; **relating to:** requiring local approval for certain wind and solar projects before Public Service Commission approval.

Analysis by the Legislative Reference Bureau

Current law prohibits a person from beginning construction of a large electric generating facility (LEGF) unless the Public Service Commission grants a certificate of public convenience and necessity (CPCN) for the proposed facility. An LEGF is defined as a facility with a nominal operating capacity of 100 megawatts or more. In addition, a public utility may not engage in certain construction, expansion, or other projects unless PSC grants a certificate of authority (CA) for the proposed project. The bill defines a “solar project” and “wind project” as an area of land on which, respectively, solar photovoltaic panels or devices used for collecting wind energy, along with any associated equipment and facilities, are installed in order to generate electricity, and which altogether is designed for nominal operation at a capacity of 15 megawatts or more.

Under this bill, before the PSC may approve a CA or a CPCN for the construction of a solar project or wind project, the person seeking the certificate must seek approval from each city, village, and town in which the solar project or

ASSEMBLY BILL 1169**SECTION 1**

wind project is to be located. The bill requires a city, village, or town to approve or disapprove a proposed solar project or wind project by adopting a resolution to that effect no later than 90 days receiving a request for such approval. If the city, village, or town fails to act within that time period, the project is considered approved. The bill allows this deadline to be extended for certain reasons. Current law limits the authority of political subdivisions to regulate solar and wind energy systems, allowing political subdivisions to impose restrictions only if they meet certain conditions. The bill provides that those limitations do not apply to the approval or disapproval of a solar project or a wind project by a city, town, or village. Current law also imposes procedures for political subdivisions that receive applications for approval relating to wind energy systems. Those procedures do not apply to approval or disapproval of a wind project under the bill.

Under the bill, PSC may not issue a CPCN or CA for a solar project or wind project unless each city, village, and town in which the project is proposed to be located has adopted a resolution approving the project.

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

SECTION 1. 66.0401 (1m) (intro.) of the statutes is amended to read:

66.0401 (1m) AUTHORITY TO RESTRICT SYSTEMS LIMITED. (intro.) ~~No~~ Except as provided in sub. (1r), no political subdivision may place any restriction, either directly or in effect, on the installation or use of a wind energy system that is more restrictive than the rules promulgated by the commission under s. 196.378 (4g) (b). ~~No~~ Except as provided in sub. (1r), no political subdivision may place any restriction, either directly or in effect, on the installation or use of a solar energy system, as defined in s. 13.48 (2) (h) 1. g., or a wind energy system, unless the restriction satisfies one of the following conditions:

SECTION 2. 66.0401 (1r) of the statutes is created to read:

66.0401 (1r) AUTHORITY TO APPROVE OR REJECT CERTAIN WIND OR SOLAR PROJECTS. (a) In this subsection:

1. "Municipality" means a city, village, or town.

ASSEMBLY BILL 1169**SECTION 2**

2. “Solar project” means an area of land on which solar photovoltaic panels or other devices used for collecting solar energy and any associated equipment and facilities are installed in order to generate electricity, and which altogether is designed for nominal operation at a capacity of 15 megawatts or more.

3. “Wind project” means an area of land on which devices used for collecting wind energy and any associated equipment and facilities are installed in order to generate electricity, and which altogether is designed for nominal operation at a capacity of 15 megawatts or more.

(b) Before the commission may approve a certificate of authority under s. 196.49 or a certificate of public convenience and necessity under s. 196.491 (3) to construct a solar project or wind project, the person seeking the certificate shall seek approval from each municipality in which the solar project or wind project is to be located.

(c) Notwithstanding sub. (4), a municipality shall, except as provided under par. (d), approve or disapprove a proposed solar project or wind project by adopting a resolution to that effect no later than 90 days after the person seeking approval submits the request for such approval. If a municipality fails to act within the 90 days, or within any extended time period established under par. (d), the solar project or wind project is considered approved.

(d) A municipality may extend the time period under par. (c) if, within that 90-day period, the municipality authorizes the extension in writing. Any combination of the following extensions may be granted, except that the total amount of time for all extensions granted under this paragraph may not exceed 90 days:

ASSEMBLY BILL 1169**SECTION 2**

1. An extension of up to 45 days if the municipality needs additional information to determine whether to approve or deny the request for approval.

2. An extension of up to 90 days if the requester makes a material modification to the request for approval.

3. An extension of up to 90 days for other good cause specified in writing by the municipality.

(e) The limitations of authority under s. 66.0401 (1m) do not apply to requests for approval of a solar project or wind project by a municipality under this subsection.

SECTION 3. 66.0401 (4) (h) of the statutes is created to read:

66.0401 (4) (h) This subsection does not apply to requests for approval of a wind project under sub. (1r).

SECTION 4. 196.49 (4m) of the statutes is created to read:

196.49 (4m) The commission may not issue a certificate under sub. (1), (2), or (3) for the construction of a solar project, as defined in s. 66.0401 (1r) (a) 2., or a wind project, as defined in s. 66.0401 (1r) (a) 3., unless each city, village, or town in which the project is proposed to be located has adopted a resolution approving the project under s. 66.0401.

SECTION 5. 196.491 (3) (d) 9. of the statutes is created to read:

196.491 (3) (d) 9. For a facility that is a solar project, as defined in s. 66.0401 (1r) (a) 2., or a wind project, as defined in s. 66.0401 (1r) (a) 3., each city, village, or

ASSEMBLY BILL 1169

SECTION 5

town in which the project is proposed to be located has adopted a resolution approving the project under s. 66.0401.

(END)