



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-2367/1
EVM:cdc

2023 ASSEMBLY BILL 165

April 10, 2023 - Introduced by Representatives BODDEN, BRANDTJEN, BROOKS, ROZAR, SCHUTT, WICHGERS and BEHNKE, cosponsored by Senators JACQUE, QUINN, STROEBEL and WANGGAARD. Referred to Committee on Energy and Utilities.

AN ACT *to repeal* 66.0401 (4) (f) 1.; *to renumber and amend* 66.0401 (4) (f) 2.;

and *to amend* 66.0401 (1m) (intro.), 66.0401 (4) (g), 66.0401 (5) (b) 3. and
196.378 (4g) (b) of the statutes; **relating to:** the regulation of wind energy
systems by local governments.

Analysis by the Legislative Reference Bureau

Current law limits the authority of a political subdivision to regulate solar and wind energy systems. For both types of systems, current law prohibits a political subdivision from imposing a restriction on the installation or use of the system unless the restriction satisfies one of the following three conditions: 1) it serves to preserve or protect the public health or safety; 2) it does not significantly increase the cost of the system or significantly decrease the system's efficiency; or 3) it allows for an alternative system of comparable cost and efficiency. However, for wind energy systems, current law imposes an additional limitation on a political subdivision's authority by prohibiting a restriction that is more restrictive than rules promulgated by the Public Service Commission under current law. This bill allows a political subdivision to impose a restriction on a wind energy system that is more restrictive than the PSC rules, but only if the restriction satisfies one of the

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foregoing three conditions. The bill does not affect a political subdivision's authority regarding solar energy systems.

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~~ A political subdivision may place ~~any~~ a 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 political subdivision may place any restriction, either directly, or in effect, a restriction~~ 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~~ but only if the restriction satisfies one of the following conditions:

SECTION 2. 66.0401 (4) (f) 1. of the statutes is repealed.

SECTION 3. 66.0401 (4) (f) 2. of the statutes is renumbered 66.0401 (4) (f) and amended to read:

66.0401 (4) (f) A political subdivision may deny an application for approval if the proposed site of the wind energy system is in an area primarily designated for future residential or commercial development, as shown in a map that is adopted, as part of a comprehensive plan, under s. 66.1001 (2) (b) and (f), before June 2, 2009, or as shown in such maps after December 31, 2015, as part of a comprehensive plan that is updated as required under s. 66.1001 (2) (i). ~~This subdivision~~ paragraph applies to a wind energy system that has a nominal capacity of at least one megawatt.

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SECTION 4. 66.0401 (4) (g) of the statutes is amended to read:

66.0401 (4) (g) A political subdivision that chooses to regulate wind energy systems shall enact an ordinance to do so, subject to sub. (6) (b), ~~that is no.~~ Subject to sub. (1m), the ordinance may be more restrictive than the applicable standards established by the commission in rules promulgated under s. 196.378 (4g).

SECTION 5. 66.0401 (5) (b) 3. of the statutes is amended to read:

66.0401 (5) (b) 3. An applicant whose application for approval is denied under sub. (4) (f) ~~2.~~ may appeal the denial to the commission. The commission may grant the appeal notwithstanding the inconsistency of the application for approval with the political subdivision's planned residential or commercial development if the commission determines that granting the appeal is consistent with the public interest.

SECTION 6. 196.378 (4g) (b) of the statutes is amended to read:

196.378 (4g) (b) The commission shall, with the advice of the wind siting council, promulgate rules that specify the restrictions a political subdivision may impose on the installation or use of a wind energy system consistent with the conditions specified in s. 66.0401 (1m) (a) to (c). The subject matter of these rules shall include setback requirements that provide reasonable protection from any health effects, including health effects from noise and shadow flicker, associated with wind energy systems. The subject matter of these rules shall also include decommissioning and may include visual appearance, lighting, electrical connections to the power grid, setback distances, maximum audible sound levels, shadow flicker, proper means of measuring noise, interference with radio,

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telephone, or television signals, or other matters. ~~A~~ As provided in s. 66.0401 (1m),
a political subdivision may ~~not~~ place a restriction on the installation or use of a
wind energy system that is more restrictive than these rules.

SECTION 7. Initial applicability.

(1) The treatment of s. 66.0401 (1m) (intro.) and (4) (g) first applies to an
ordinance that takes effect on the effective date of this subsection.

(END)