



State of Wisconsin  
2025 - 2026 LEGISLATURE

LRB-2777/1  
EHS&KP:cjs

## 2025 ASSEMBLY BILL 174

April 14, 2025 - Introduced by Representatives O'CONNOR, BROOKS, GREEN, MOSES, TRANEL, VOS and MURSAU. Referred to Committee on Energy and Utilities.

1     **AN ACT** *to renumber* 1.12 (4) (cm), 16.75 (12) (e) and 66.0401 (4) (a); *to*  
2         *renumber and amend* 66.0401 (1e) (a) and 114.135 (7); *to amend* 1.12 (3)  
3         (b), 1.12 (5) (a), 16.75 (12) (a) 4., 66.0401 (1m) (intro.), 66.0401 (5) (a) and (e),  
4         66.0627 (1) (bk) 2., 196.374 (3) (a), 196.378 (1) (ag), 196.378 (1) (am), 196.378  
5         (1) (ar), 196.378 (1) (b), 196.378 (1) (fg), 196.378 (1) (fm), 196.378 (1) (fr),  
6         196.378 (1) (g), 196.378 (1) (h) (intro.), 196.378 (1) (h) 1. a., 196.378 (1) (h) 2.,  
7         196.378 (1) (i), 196.378 (1) (o), 196.378 (2) (title), 196.378 (2) (a) 1., 196.378 (2)  
8         (a) 2. a. to f., 196.378 (2) (b) 5., 196.378 (2) (bm), 196.378 (2) (c), 196.378 (2) (d)  
9         (intro.), 196.378 (2) (d) 2., 196.378 (2) (e) 2., 196.378 (2) (e) 3., 196.378 (2) (e) 4.,  
10         196.378 (3) (title), 196.378 (3) (a), 196.378 (3) (c), 196.378 (4), 196.378 (4m)  
11         (title), 196.378 (4m) (a), 196.378 (4m) (b), 196.378 (4r), 196.378 (5) (intro.),  
12         196.491 (1) (e) and 238.15 (1) (g); *to repeal and recreate* 196.378 (title); *to*  
13         *create* 13.94 (1) (q), 16.75 (12) (e) 1., 66.0401 (1e) (am), (bk), (bL), (bm), (bn),

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1 (bo), (br), (cm) and (cs), 66.0401 (7) to (12), 93.74, 114.135 (7) (a), 114.135 (7)  
2 (b) 3., 114.135 (7) (d), 196.378 (1) (e) and (em), 196.378 (1) (h) 1r., 196.378 (2)  
3 (a) 2. em., 196.378 (3) (a) 3., 196.485 (1) (cr), 196.485 (1) (ef), 196.485 (1) (hm),  
4 196.485 (3g), 196.485 (3j), 196.485 (3r), 196.491 (1) (ar), 196.491 (1) (h),  
5 196.491 (1) (i), 196.491 (3) (a) 1m., 196.491 (3) (a) 4., 196.491 (3) (a) 5., 196.491  
6 (3) (a) 6., 196.491 (3) (d) 9., 196.491 (3) (d) 10. and 196.491 (3) (d) 11. of the  
7 statutes; **relating to:** transmission facilities; installation of large wind  
8 energy, large solar energy, and battery energy storage systems; installation of  
9 light-mitigating technology systems; and prioritizing nuclear energy  
10 resources.

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***Analysis by the Legislative Reference Bureau***

This bill does the following, described in further detail below: 1) establishes a competitive bidding requirement for certain transmission facility contracts and establishes an audit process to review such contracts; 2) grants certain rights to incumbent transmission facility owners; 3) imposes requirements on the construction of large wind energy systems, large solar energy systems, and battery energy storage systems, including the purchase of certain agricultural conservation easements when such systems are located on prime farmland; 4) makes nuclear energy a state policy priority; and 5) requires the installation of light-mitigating technology systems on certain wind energy systems and transmission line towers.

***Competitive bidding requirement for certain transmission projects***

The bill requires owners of proposed transmission facilities for which a certificate of public convenience and necessity (CPCN) is required from the Public Service Commission to let certain transmission facility contracts by competitive bidding. Under the bill, a “transmission facility contract” is a contract for the design of, construction of, or furnishing of materials for a transmission facility. Current law requires a person seeking to construct a high-voltage transmission line exceeding one mile in length designed for operation at a nominal voltage of 100 kilovolts or more to obtain a CPCN from PSC. The bill requires owners of proposed transmission facilities for which a CPCN is required to let transmission facility contracts having an estimated cost of performance that exceeds \$1,000,000 on the basis of sealed competitive bids and to award transmission facility contracts to the lowest responsible bidder. If fewer than three bids from responsible bidders are

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received for a contract, the transmission facility owner must solicit additional bids for at least 30 additional days, and if fewer than three bids from responsible bidders are received after the additional bidding period, the owner must document that circumstance. A transmission facility owner may require a person, before the person submits a bid for a transmission facility contract, to submit a statement containing information relating to the person's financial ability, equipment, experience in the work prescribed by the contract, and ability to safely perform the work prescribed by the contract.

Also, under the bill, the owner of a proposed transmission facility that involves entering a transmission facility contract that the bill requires to be competitively bid must include in an application for a CPCN an estimate of the cost of construction, along with documentation that the estimate is the result of competitively bid transmission facility contracts. The bill also requires such a transmission facility owner to provide to PSC until construction is complete annual reports that include updated estimates of the construction cost and an explanation of any changes from prior cost estimates. Further, no later than 30 days after the transmission facility is placed in service, the owner must provide evidence to PSC that the transmission facility contracts performed in completing the transmission facility were awarded in compliance with the competitive bidding requirements established by the bill.

***Audit requirements, return on equity reductions, and equity limitation***

The bill requires the Legislative Audit Bureau to conduct an audit of 15 percent of the transmission facility contracts subject to the bill's competitive bidding requirements that are performed related to constructing each transmission facility that requires a CPCN, as well as any contracts for which the Joint Legislative Audit Committee requests an audit. The bill requires LAB to file with PSC a detailed audit report, including specific instances of any violations of the competitive bidding process requirements. The bill requires PSC to open a docket on any such audit report it receives, hold a public hearing, and determine if the transmission facility owner violated any competitive bidding requirements.

In addition, if the owner of a transmission facility for which transmission rates are determined by the Federal Energy Regulatory Commission violates the bill's competitive bidding requirements, the owner must seek approval of a tariff that provides a return on equity that is either half of MISO's base return on equity with respect to the transmission facility or equal to the owner's average cost of debt, whichever is higher. If the cost to construct a transmission facility for which transmission rates are determined by FERC exceeds the estimated cost provided to PSC, the owner must seek approval of a tariff that provides, for the portion of the cost to construct the transmission facility that exceeds the estimated cost, a rate of return on equity that is either half of MISO's base return on equity or equal to the owner's cost of debt, whichever is higher.

In determining whether the costs of a transmission facility exceeded the estimated costs for purposes of triggering a reduction in the transmission facility owner's return on equity, the bill provides that costs that exceed the estimated cost

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but that are prudently incurred or that are a result of force majeure may not be considered excess costs.

Under the bill, the owner of a transmission facility for which a CPCN was required may not seek to recover in rates approved by FERC an amount of equity in the transmission facility that exceeds 50 percent of the project costs.

***Rights of an incumbent transmission facility owner***

The bill also grants to an incumbent transmission facility owner the right to construct, own, and maintain a transmission facility that has been approved for construction in the Midcontinent Independent System Operator's (MISO) transmission plan and that connects to transmission facilities owned by that incumbent transmission facility owner. Under the bill, an "incumbent transmission facility owner" includes a transmission company or transmission utility (a cooperative or public utility that owns a transmission facility and provides transmission service in this state), regardless of whether this state is its principal place of business or where it is organized or headquartered. Under current law, MISO is an organization that is subject to the jurisdiction of the Federal Energy Regulatory Commission and that coordinates and controls electric transmission in a region of the country that includes this state. The bill provides that the right to construct, own, and maintain a transmission facility that connects to transmission facilities owned by two or more incumbent transmission facility owners belongs individually and proportionally to each incumbent transmission facility owner, unless otherwise agreed upon in writing.

Under the bill, if under MISO's transmission plan a regionally cost-shared transmission line has been approved for construction and connection to facilities owned by an incumbent transmission facility owner, the incumbent transmission facility owner must give the Public Service Commission written notice regarding the owner's intent to construct, own, and maintain the line no later than 90 days after approval of the transmission plan or 90 days after the date on which this bill becomes law, whichever is later. If the owner indicates that it does not intend to construct the line, the bill requires it to fully explain that decision in the notice to PSC. In that case, the bill allows PSC to determine whether the incumbent transmission facility owner or another entity must construct the line, taking into consideration issues such as cost, efficiency, and reliability. The bill defines "regionally cost-shared transmission line" to mean a high-voltage transmission line that is eligible for regional cost sharing and is not subject to a right of first refusal in accordance with the MISO tariff.

The bill requires an incumbent transmission facility owner with the right to construct a MISO-approved regionally cost-shared transmission line to, as soon as practicable after the information is available, submit a report to PSC, the assembly speaker, the assembly minority leader, the senate majority leader, the senate minority leader, and the governor detailing the amount of the costs of the transmission line project that are being charged to energy consumers outside this state.

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The bill provides that the rights and responsibilities of incumbent transmission facility owners created under the bill are void if the President of the United States issues a lawful executive order, FERC issues a lawful order or rule, or Congress enacts a valid statute and that executive order, order, rule, or statute has the effect of repealing or nullifying provisions of MISO's tariff that allow the owner of a transmission facility to allocate costs of the transmission facility over a region encompassing more than one state.

***Regulation of large wind, large solar, and battery energy systems***

The bill requires a person seeking to construct a battery energy storage system to obtain a CPCN from PSC. The bill defines a "battery energy storage system" as a device that occupies one acre or more and that captures energy produced at one time, stores it for future use, and later delivers it as electricity. The bill defines "large wind energy system" and "large solar energy system," respectively, as a wind energy system or solar energy system with an electric generating capacity of 100 megawatts or more. Under current law, a person seeking to construct a large electric generating facility, specifically a facility designed with an electric generating capacity of at least 100 megawatts, must obtain a CPCN. The bill prohibits PSC from issuing a CPCN for a large wind energy system, large solar energy system, or battery energy storage system unless both of the following apply: 1) including the acres occupied by the system proposed by the applicant, the total amount of acres of land in the town in which the system is located that are occupied by large wind energy systems, large solar energy systems, or battery energy storage systems is not more than 2,000 acres; and 2) including the acres occupied by the system proposed by the applicant, the total amount of acres of land in the county in which the system is located that are occupied by large wind energy systems, large solar energy systems, or battery energy storage systems is not more than 5,000 acres.

Additionally, current law authorizes a city, village, town, or county (political subdivision) to restrict the installation or use of a wind energy system or solar energy system as long as the restriction serves to preserve or protect the public health or safety, does not significantly increase the cost of the system or significantly decrease its efficiency, and allows for an alternative system of comparable cost and efficiency. Current law also states that a political subdivision may not place a restriction on the installation or use of a wind energy system that is more restrictive than rules that PSC is required to promulgate on that subject. Current law defines "wind energy system" as equipment and associated facilities that convert and then store or transfer energy from the wind into usable forms of energy. and defines "solar energy system" as equipment that directly converts and then transfers or stores solar energy into usable forms of thermal or electrical energy.

The bill imposes certain requirements on a person seeking political subdivision approval or a CPCN for a large wind energy system, large solar energy system, or battery energy storage system. Specifically, the bill requires all of the following from a person seeking such approvals:

1. To submit with the application a decommissioning and site restoration

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plan, including a plan to clean, clear, and remove foundations from the site and to restore the land to its prior condition and a financial assurance obligation for the estimated cost of decommissioning.

2. To submit with the application a drainage plan, including plans to repair or replace any subsurface drainage affected during the construction or decommissioning of a large wind energy system, large solar energy system, or battery energy storage system.

3. To provide visual screening of a large solar energy system or battery energy storage system for certain nearby properties that have a residence within 250 feet of the system.

4. To make attempts to enter good neighbor agreements with owners of certain nearby properties.

5. To provide written notice, no later than 45 days before submitting a CPCN application, indicating interest in entering into an economic development agreement to each political subdivision in which the proposed facility would be located and take all commercially reasonable efforts to negotiate an economic development agreement with each political subdivision.

6. To provide written notice at least 45 days before submitting a CPCN application to each property owner located within one mile of a proposed facility, each political subdivision in which the proposed facility is proposed, and the American Indian tribal governing body for any land under that body's jurisdiction that is within the project boundary.

7. To post notice of the proposed project at least 45 days before submitting a CPCN application by class 1 notice in the official state newspaper.

The bill requires PSC to create a pamphlet of not more than two pages, available on its website, that explains in plain language all provisions of the bill relating specifically to large wind energy systems, large solar energy systems, and battery energy storage systems, and requires PSC, if it receives a CPCN application for such a system, to distribute this pamphlet by mail or electronically to certain impacted property owners and to the political subdivision in which the project is proposed to be located.

***Purchase of agricultural conservation easements required for large wind, solar, and battery systems***

The bill also requires owners of large wind energy systems, large solar energy systems, and battery energy storage systems that are located on land that has a National Commodity Crop Productivity Index (NCCPI) of 0.6 or greater as identified by the Natural Resources Conservation Service of the U.S. Department of Agriculture (USDA) and that was prime farmland at the time that a CPCN was applied for for the system to purchase certain agricultural conservation easements before placing the system in service. Under the bill, "prime farmland" means land in use for an agricultural use or in use for a use that has agricultural value, including land that is part of a crop rotation or land enrolled in the USDA Conservation Reserve Program if the land is prime farmland, unique farmland, or additional farmland of statewide importance under the specifications of the USDA. An agricultural conservation easement prohibits the land subject to the easement

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from being developed for a use that would make the land unavailable or unsuitable for agricultural use.

Under the bill, an owner of a large wind energy system, large solar energy system, or battery energy storage system must purchase agricultural conservation easements on four acres of prime farmland for each acre of land on which the system is located that was prime farmland having an NCCPI of 0.8 or greater, and must purchase such easements on two acres of prime farmland for each acre of land on which the system is located that was prime farmland having an NCCPI of not less than 0.6 and not more than 0.8 or that was unique farmland or additional farmland of statewide importance. The bill requires an owner to make commercially reasonable efforts to purchase agricultural conservation easements on acres of prime farmland in the following order of priority: 1) acres adjacent to the system and owned by an owner-operator; 2) acres located in the same county as the system and owned by an owner-operator; 3) acres located in an adjacent county and owned by an owner-operator; 4) acres adjacent to the system; 5) acres located in the same county as the system; 6) acres located in an adjacent county; and 7) acres located in this state. Under the bill, an “owner-operator” is a person who owns land and who materially participates in a trade or business that engages in an agricultural use on that land. The purchase cost of an agricultural conservation easement required under the bill is \$2,500 for each acre, and is paid to the landowner in equal payments made over five years.

Under the bill, an application to PSC for a CPCN for a proposed large wind energy system, large solar energy system, or battery energy storage system must include proof that the applicant has entered into contracts for the purchase of agricultural conservation easements required by the bill. The bill also requires the agricultural conservation easements to include a provision that authorizes the Department of Agriculture, Trade and Consumer Protection, on behalf of the state, to bring actions to enforce or defend the easements. The bill prohibits large wind energy systems, large solar energy systems, and battery energy storage systems from being separated into multiple systems to decrease the nominal capacity of each system below 100 megawatts to construct the systems without purchasing the agricultural conservation easements required by the bill.

***Nuclear energy as a state policy priority***

The bill establishes as state policy that nuclear energy is a high-priority option, second only to energy efficiency and conservation, to be considered in meeting the state’s energy demands, over noncombustible renewable energy resources and combustible renewable energy resources. Under current law, it is the goal of the state that, to the extent it is cost effective and technically feasible, all new installed capacity for electric generation be based on renewable energy resources. The bill adds nuclear energy to this focus, along with renewable energy. Current law also provides that, in designing all new and replacement energy projects, a state agency or local governmental unit must rely to the greatest extent feasible on energy efficiency improvements and renewable energy resources if those are cost effective, are technically feasible, and do not have unacceptable

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environmental impacts. The bill adds nuclear energy resources to this list of prioritized resources.

Current law requires the Department of Administration to establish renewable energy percentage goals for certain state agencies to meet in 2007 and 2011 and then to submit a report to the governor and the legislature each March 1 concerning the degree of attainment of those goals during the preceding year. Under the bill, beginning in 2026, those reports must include nuclear energy in the definition of “renewable resource” for the purpose of that report.

The bill expands current laws that govern state renewable resource goals and renewable resource credits to include as an eligible resource one that derives electricity from nuclear power. The bill changes the terminology in these laws to use the term “low-carbon-emission” instead of “renewable.”

***Light-Mitigating technology systems***

The bill imposes lighting requirements on certain wind energy systems and high-voltage transmission line towers. Under the bill, such structures placed in service on or after the effective date of the bill 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).

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 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 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.

Also, the bill requires the owner of a utility structure that is placed in service before the bill’s effective date and for which DOT has issued a height permit to

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submit a report to PSC no later than July 1, 2026, on the commercial feasibility of installing an LMTS on the utility structure.

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

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

1           **SECTION 1.** 1.12 (3) (b) of the statutes is amended to read:

2           1.12 (3) (b) *Renewable and nuclear energy resources.* It is the goal of the state  
3 that, to the extent that it is cost-effective and technically feasible, all new installed  
4 capacity for electric generation in the state be based on renewable energy resources,  
5 including hydroelectric, wood, wind, solar, refuse, agricultural and biomass energy  
6 resources, or nuclear energy.

7           **SECTION 2.** 1.12 (4) (cm) of the statutes is renumbered 1.12 (4) (am).

8           **SECTION 3.** 1.12 (5) (a) of the statutes is amended to read:

9           1.12 (5) (a) In designing all new and replacement energy projects, a state  
10 agency or local governmental unit shall rely to the greatest extent feasible on  
11 energy efficiency improvements and renewable or nuclear energy resources, if the  
12 energy efficiency improvements and renewable or nuclear energy resources are  
13 cost-effective and technically feasible and do not have unacceptable environmental  
14 impacts.

15           **SECTION 4.** 13.94 (1) (q) of the statutes is created to read:

16           13.94 (1) (q) Conduct audits under s. 196.485 (3r) (c) 1. of 15 percent of  
17 transmission facility contracts related to each certificate issued under s. 196.491 (3)  
18 that are required to be competitively bid under s. 196.485 (3r) (b), and as the joint

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1 legislative audit committee directs, conduct audits of other transmission facility  
2 contracts that are required to be competitively bid under s. 196.485 (3r) (b).

3 **SECTION 5.** 16.75 (12) (a) 4. of the statutes is amended to read:

4 16.75 (12) (a) 4. ~~“Renewable~~ Except as provided under par. (e), “renewable  
5 resource” has the meaning given in s. 196.378 (1) (h) 1., 1m., or 2. ~~and includes a~~  
6 ~~resource, as defined in s. 196.378 (1) (j), that derives electricity from hydroelectric~~  
7 ~~power.~~

8 **SECTION 6.** 16.75 (12) (e) of the statutes is renumbered 16.75 (12) (e) 2.

9 **SECTION 7.** 16.75 (12) (e) 1. of the statutes is created to read:

10 16.75 (12) (e) 1. Beginning in 2026, and only for purposes of the report under  
11 this paragraph, “renewable resources” also includes nuclear energy resources.

12 **SECTION 8.** 66.0401 (1e) (a) of the statutes is renumbered 66.0401 (4) (ag) and  
13 amended to read:

14 66.0401 (4) (ag) ~~“Application~~ In this subsection, “application for approval”  
15 means an application for approval of a wind energy system under rules  
16 promulgated by the commission under s. 196.378 (4g) (c) 1.

17 **SECTION 9.** 66.0401 (1e) (am), (bk), (bL), (bm), (bn), (bo), (br), (cm) and (cs) of  
18 the statutes are created to read:

19 66.0401 (1e) (am) “Battery energy storage system” has the meaning given in  
20 s. 196.491 (1) (ar).

21 (bk) “Large solar energy system” means a solar energy system designed for  
22 nominal operation at a capacity of 100 megawatts or more.

23 (bL) “Large wind energy system” means a wind energy system designed for  
24 nominal operation at a capacity of 100 megawatts or more.

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1           (bm) “Nonparticipating property” means real property that is not a  
2 participating property.

3           (bn) “Nonparticipating residence” means a residence located on  
4 nonparticipating property.

5           (bo) “Occupied community building” means a school, church or similar place  
6 of worship, a daycare facility, or a public library.

7           (br) “Participating property” means real property that is the subject of an  
8 agreement that does all of the following:

9           1. Provides for the payment of monetary compensation to the landowner from  
10 an owner regardless of whether any part of a wind energy system is constructed on  
11 the property.

12           2. Specifies in writing any waiver of a requirement or right under this section  
13 or rules promulgated thereunder and that the landowner’s acceptance of payment  
14 establishes the landowner’s property as a participating property.

15           (cm) “Residence” means a primary or secondary personal residence that is  
16 occupied on the date that an application for approval of a wind energy system or  
17 solar energy system is filed under this section or s. 196.491 (3), including a  
18 manufactured home as defined in s. 101.91 (2), a hospital, community-based  
19 residential facility, residential care apartment complex, or similar facility, or a  
20 nursing home. “Residence” includes a temporarily unoccupied primary or  
21 secondary personal residence. “Residence” does not include any of the following:

22           1. A recreational vehicle, as defined in s. 340.01 (48r), notwithstanding the  
23 length of the vehicle.

24           2. A camping trailer, as defined in s. 340.01 (6m).

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3. A permanently abandoned personal residence.

(cs) “Solar energy system” means a solar energy system as defined under s. 13.48 (2) (h) 1. g.

**SECTION 10.** 66.0401 (1m) (intro.) of the statutes is amended to read:

66.0401 **(1m)** AUTHORITY TO RESTRICT SYSTEMS LIMITED. (intro.) 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 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 11.** 66.0401 (4) (a) of the statutes is renumbered 66.0401 (4) (am).

**SECTION 12.** 66.0401 (5) (a) and (e) of the statutes are amended to read:

66.0401 **(5)** (a) A decision of a political subdivision to determine that an application is incomplete under sub. (4) ~~(a)~~ (am) 1., or to approve, disapprove, or impose a restriction upon a wind energy system, or an action of a political subdivision to enforce a restriction on a wind energy system, may be appealed only as provided in this subsection.

(e) In conducting a review under par. (d), the commission may treat a political subdivision’s determination that an application under sub. (4) ~~(a)~~ (am) 1. is incomplete as a decision to disapprove the application if the commission determines that a political subdivision has unreasonably withheld its determination that an application is complete.

**SECTION 13.** 66.0401 (7) to (12) of the statutes are created to read:

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1           66.0401 (7) DECOMMISSIONING OF LARGE WIND, LARGE SOLAR, AND BATTERY  
2 ENERGY SYSTEMS. A person who submits an application for approval of a large wind  
3 energy system, large solar energy system, or battery energy storage system under  
4 this section or s. 196.491 (3) shall submit with the application a decommissioning  
5 and site restoration plan that includes all of the following:

6           (a) A plan to clear, clean, and remove the foundations of the large wind energy  
7 system, solar energy system, or battery energy storage system from the ground to a  
8 depth of at least 3 feet below the surface grade of the land in which the foundations  
9 are installed on the site within 18 months from the date the large wind energy  
10 system, large solar energy system, or battery energy storage system ceases  
11 operations, unless otherwise agreed to by the property owner. The date the large  
12 wind energy system, large solar energy system, or battery energy storage system  
13 ceases operation is the date on which the system is no longer capable of generating  
14 or storing electricity in commercial quantities, except when such inability to  
15 generate or store electricity is the result of an event of force majeure or when the  
16 grantee is in the process of repairing the wind energy system, solar energy system,  
17 or battery energy storage system, provided that, in either case, the large wind  
18 energy system, large solar energy system, or battery energy storage system  
19 resumes generating or storing electricity in commercial quantities within 180 days.

20           (b) A plan to restore the land to a reasonably similar condition as prior to the  
21 commencement of construction.

22           (c) A financial assurance obligation in an amount equal to the estimated cost  
23 of decommissioning the large wind energy system, large solar energy system, or  
24 battery energy storage system less the salvage value of the components, as

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1 calculated by a 3rd-party licensed engineer. This amount shall be provided in a  
2 surety bond, irrevocable line of credit, parent company guarantee, or similar  
3 instrument and shall be posted by the 15th anniversary of the start of operations of  
4 the large wind energy system, large solar energy system, or battery energy storage  
5 system.

6 (8) VISUAL SCREENING. At the request of the owner of nonparticipating  
7 property and prior to the start of operations, a person who has received a certificate  
8 of public convenience and necessity under s. 196.491 (3) for a large solar energy  
9 system or battery energy storage system and the participating property owner  
10 shall, at their joint expense, provide visual screening for nonparticipating  
11 residences within 250 feet of the above-ground components of the large solar energy  
12 system or battery energy storage system, with a maximum cost of \$1,500 per  
13 property line. The visual screening may be erected by the large solar energy system  
14 owner or battery energy storage system owner, as applicable, or provided as a one-  
15 time payment-in-lieu directly to the nonparticipating property owner.

16 (9) GOOD NEIGHBOR AGREEMENTS. (a) Within 120 days of submitting an  
17 application for any approval of a large wind energy system, large solar energy  
18 system, or battery energy storage system under this section or s. 196.491 (3), the  
19 person proposing the large wind energy system, large solar energy system, or  
20 battery energy storage system or that person's representative shall make no less  
21 than three attempts to meet with nonparticipating property owners to disclose and  
22 discuss the project and enter into any contractual agreements, unless advised by  
23 the contacted property owner to cease contact attempts.

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1 (b) An attempt under par. (a) may be made in-person, electronically, or via  
2 certified mail.

3 (c) A person proposing a large wind energy system, large solar energy system,  
4 or battery energy storage system shall make commercially reasonable attempts to  
5 reach agreements with nonparticipating property owners, and nonparticipating  
6 property owners shall accept or deny any such contractual agreements no later than  
7 45 days after receiving an offer.

8 (d) Payments made pursuant to a contractual agreement under par. (c) shall  
9 be contingent upon the person proposing the project receiving all required  
10 approvals for construction of the large wind energy system, large solar energy  
11 system, or battery energy storage system.

12 **(10) ECONOMIC DEVELOPMENT AGREEMENTS.** (a) No later than 45 days before  
13 a person submits an application for approval of a large wind energy system, large  
14 solar energy system, or battery energy storage system under s. 196.491 (3), if  
15 required, the person shall submit a written notice indicating the person's interest  
16 in entering into an economic development agreement to each political subdivision  
17 in which the proposed facility would be located and shall take all commercially  
18 reasonable efforts to negotiate an economic development agreement with each  
19 political subdivision.

20 (b) An economic development agreement under this subsection may include  
21 any of the following:

- 22 1. Setbacks and screening from occupied community buildings.
- 23 2. Road use agreements.
- 24 3. Decommissioning.

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1           4. Drainage infrastructure.

2           5. First responder services and communication.

3           6. Planning and coordination of construction activities.

4           (c) Failure to reach an agreement may not be used as justification for denial of  
5 any approval under this section or s.196.491 (3).

6           **(11) DRAINAGE PLAN.** A person who seeks approval of a large wind energy  
7 system, large solar energy system, or battery energy storage system under this  
8 section or s. 196.491 (3) shall submit with its application a drainage plan, which  
9 shall include plans to repair or replace any subsurface drainage affected during the  
10 construction or decommissioning of the system.

11           **(12) INFORMATION FOR PROPERTY OWNERS AND POLITICAL SUBDIVISIONS.** (a)  
12 The public service commission shall create a pamphlet of not more than 2 pages,  
13 available on its website, that explains in plain language all provisions under this  
14 section and s. 196.491 (3) that relate specifically to large wind energy systems, large  
15 solar energy systems, and battery energy storage systems.

16           (b) If the commission receives an application for a certificate of public  
17 convenience and necessity under s. 196.491 (3) for a large wind energy system, large  
18 solar energy system, or battery energy storage system, the commission shall  
19 distribute the pamphlet under par. (a) by mail or electronically to any owner of  
20 property on which or adjacent to which the project is proposed to be located and any  
21 political subdivision in which the project is proposed to be located.

22           **SECTION 14.** 66.0627 (1) (bk) 2. of the statutes is amended to read:

23           66.0627 (1) (bk) 2. An improvement to a premises that allows for the small

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## SECTION 14

scale derivation of electricity from a ~~renewable~~ low-carbon-emission resource listed under s. 196.378 (1) (h).

**SECTION 15.** 93.74 of the statutes is created to read:

**93.74 Purchase of agricultural conservation easements required for large wind, large solar, and battery systems.** (1) DEFINITIONS. In this section:

(a) “Agricultural conservation easement” means a conservation easement, as defined in s. 700.40 (1) (a), the purpose of which is to assure the availability of land for agricultural use.

(b) “Agricultural use” has the meaning given in s. 93.73 (1m) (b), except that “agricultural use” does not include use of land on which any of the following is located:

1. A wind energy system, as defined in s. 66.0403 (1) (m).

2. A solar energy system, as defined in s. 13.48 (2) (h) 1. g.

3. A battery energy storage system, as defined in s. 196.491 (1) (ar).

(c) “Owner-operator” means a person who has an ownership interest in land and who materially participates in a nonpassive trade or business that engages in an agricultural use on that land.

(d) “Prime farmland” means land in use for an agricultural use or in use for a use that has agricultural value including land that is part of a crop rotation or land enrolled in the federal conservation reserve program under 16 USC 3831 et seq. if the land is any of the following:

1. Prime farmland under the specifications in 7 CFR 657.5 (a).

2. Unique farmland under the specifications in 7 CFR 657.5 (b).

1           3. Additional farmland of statewide importance under the specification in 7  
2       CFR 657.5 (c).

3           (e) “Productivity index” means the national commodity crop productivity  
4       index as identified by the natural resources conservation service of the federal  
5       department of agriculture.

6           (f) “Purchase cost” means the amount paid to a landowner to acquire an  
7       agricultural conservation easement from the landowner.

8           (g) “Specified facility” means a large wind energy system, as defined in s.  
9       66.0401 (1e) (bL), a large solar energy system, as defined in s. 66.0401 (1e) (bk), or  
10      a battery energy storage system, as defined in s. 196.491 (1) (ar).

11          **(2) PURCHASE OF EASEMENT REQUIRED.** (a) 1. An owner of a specified facility  
12      that is located on land that has a productivity index of 0.6 or greater and that was  
13      prime farmland at the time that the application pursuant to s. 196.491 (3) was filed  
14      for the specified facility shall before placing the specified facility in service and, if  
15      the land is leased, before renewing a lease or entering into a new lease for land on  
16      which the specified facility is located purchase agricultural conservation easements  
17      as follows:

18          a. For each acre of land on which the specified facility is located that was  
19      prime farmland having a productivity index of 0.8 or greater at the time that the  
20      application for the specified facility was filed, the owner shall purchase agricultural  
21      conservation easements for 4 acres of prime farmland having a productivity index  
22      of 0.8 or greater as provided in par. (b).

23          b. For each acre of land on which the specified facility is located that was  
24      prime farmland having a productivity index of not less than 0.6 and not more than

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1 0.8 at the time that the application for the specified facility was filed, the owner  
2 shall purchase agricultural conservation easements for 2 acres of prime farmland  
3 having a productivity index of 0.6 or greater as provided in par. (b).

4 2. a. An owner of a specified facility that is located on land that was unique  
5 farmland under the specifications in 7 CFR 657.5 (b) or additional farmland of  
6 statewide importance under the specification in 7 CFR 657.5 (c) at the time that the  
7 application pursuant to s. 196.491 (3) was filed for the specified facility shall before  
8 placing the specified facility in service and, if the land is leased, before renewing a  
9 lease or entering into a new lease for land on which the specified facility is located  
10 purchase agricultural conservation easements as provided in par. (b).

11 b. For each acre of land on which a specified facility described in subd. 2. a. is  
12 located that was unique farmland under the specifications in 7 CFR 657.5 (b) or  
13 additional farmland of statewide importance under the specification in 7 CFR 657.5  
14 (c) at the time that the application for the specified facility was filed, the owner  
15 shall purchase as provided in par. (b) agricultural conservation easements for 2  
16 acres of prime farmland that is unique farmland under the specifications in 7 CFR  
17 657.5 (b) or additional farmland of statewide importance under the specification in  
18 7 CFR 657.5 (c) or that has a productivity index of 0.6 or greater.

19 (b) 1. An owner required to purchase agricultural conservation easements  
20 under par. (a) shall make commercially reasonable efforts to purchase all of those  
21 required agricultural conservation easements on acres of prime farmland that are  
22 adjacent to the parcel on which the owner's specified facility is located and that are  
23 owned by an owner-operator.

24 2. If an owner required to purchase agricultural conservation easements

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1 under par. (a) is unable to purchase all of those required agricultural conservation  
2 easements on acres of prime farmland described in subd. 1., the owner shall make  
3 commercially reasonable efforts to purchase the remaining agricultural  
4 conservation easements required under par. (a) on acres of prime farmland that are  
5 located in the same county as the owner's specified facility and that are owned by an  
6 owner-operator.

7 3. If an owner required to purchase agricultural conservation easements  
8 under par. (a) is unable to purchase all of those required agricultural conservation  
9 easements on acres of prime farmland described in subd. 1. or 2., the owner shall  
10 make commercially reasonable efforts to purchase the remaining agricultural  
11 conservation easements required under par. (a) on acres of prime farmland that are  
12 located in a county that is adjacent to the county in which the owner's specified  
13 facility located and that are owned by an owner-operator.

14 4. If an owner required to purchase agricultural conservation easements  
15 under par. (a) is unable to purchase all of those required agricultural conservation  
16 easements on acres of prime farmland described in subd. 1., 2., or 3., the owner  
17 shall make commercially reasonable efforts to purchase the remaining agricultural  
18 conservation easements required under par. (a) on acres of prime farmland that are  
19 adjacent to the parcel on which the owner's specified facility is located.

20 5. If an owner required to purchase agricultural conservation easements  
21 under par. (a) is unable to purchase all of those required agricultural conservation  
22 easements on acres of prime farmland described in subd. 1., 2., 3., or 4., the owner  
23 shall make commercially reasonable efforts to purchase the remaining agricultural

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1 conservation easements required under par. (a) on acres of prime farmland that are  
2 located in the same county as the owner's specified facility.

3 6. If an owner required to purchase agricultural conservation easements  
4 under par. (a) is unable to purchase all of those required agricultural conservation  
5 easements on acres of prime farmland described in subd. 1., 2., 3., 4., or 5., the  
6 owner shall make commercially reasonable efforts to purchase the remaining  
7 agricultural conservation easements required under par. (a) on acres of prime  
8 farmland that are located in a county that is adjacent to the county in which the  
9 owner's specified facility is located.

10 7. If an owner required to purchase agricultural conservation easements  
11 under par. (a) is unable to purchase all of those required agricultural conservation  
12 easements on acres of prime farmland described in subd. 1., 2., 3., 4., 5., or 6., the  
13 owner shall make commercially reasonable efforts to purchase the remaining  
14 agricultural conservation easements required under par. (a) on acres of prime  
15 farmland that are located in this state.

16 (c) 1. The purchase cost of an agricultural conservation easement purchased  
17 pursuant to par. (a) shall be \$2,500 for each acre.

18 2. The purchase cost of an agricultural conservation easement purchased  
19 pursuant to par. (a) shall be paid to the landowner in equal payments made over 5  
20 years, beginning with the year in which the specified facility for which that  
21 easement is purchased pursuant to par. (a) is placed in service.

22 (d) 1. An agricultural conservation easement purchased pursuant to par. (a)  
23 shall satisfy all of the following:

24 a. The easement shall prohibit the land subject to the easement from being

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1 developed for a use that would make the land unavailable or unsuitable for  
2 agricultural use.

3 b. The easement shall include a provision that authorizes the department, on  
4 behalf of this state, to bring an action to enforce or defend the easement.

5 2. An agricultural conservation easement purchased pursuant to par. (a) shall  
6 terminate at the one of the following, whichever is earliest:

7 a. The end of the lease term for the land on which is located the specified  
8 facility for which the easement is purchased pursuant to par. (a).

9 b. The termination of the lease for the land on which is located the specified  
10 facility for which the easement is purchased pursuant to par. (a).

11 c. The decommissioning of the specified facility for which the easement is  
12 purchased pursuant to par. (a).

13 **(3) SPLITTING OF FACILITIES PROHIBITED.** An owner of a proposed specified  
14 facility may not separate the proposed specified facility into multiple specified  
15 facilities to decrease the nominal capacity of each of the specified facilities below  
16 100 megawatts to construct the specified facilities without complying with the  
17 requirements under this section.

18 **(4) RECORDING; ENFORCEMENT; TRANSFERS.** (a) Upon purchase of an  
19 agricultural conservation easement pursuant to sub. (2) (a), the holder shall  
20 promptly record the easement with the register of deeds of the county in which the  
21 land subject to the easement is located.

22 (b) The department may enforce and defend an agricultural conservation  
23 easement purchased pursuant to sub. (2) (a) and may, on behalf of this state, bring  
24 an action to enforce or defend such an easement.

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1 (c) The transfer of a holder's interest in an agricultural conservation  
2 easement purchased pursuant to sub. (2) (a) does not affect the department's  
3 authority to bring an action to enforce the agricultural conservation easement.

4 (d) A holder of an agricultural conservation easement purchased pursuant to  
5 sub. (2) (a) may not terminate the easement except as provided under sub. (2) (d) 2.

6 (e) If an owner of a specified facility that is required to purchase an  
7 agricultural conservation easement under sub. (2) (a) transfers ownership of the  
8 specified facility, the owner shall also transfer all agricultural conservation  
9 easements purchased for the specified facility that are held by the owner to the  
10 person to which the specified facility is transferred.

11 **SECTION 16.** 114.135 (7) of the statutes is renumbered 114.135 (7) (b) (intro.)  
12 and amended to read:

13 114.135 (7) (b) (intro.) For the purposes of sub. (6), the power and authority to  
14 control the erection of buildings, structures, towers, and other objects by the  
15 secretary of transportation shall be limited to ~~these objects~~ all of the following:

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

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

21 (c) The power and authority under par. (b) shall not extend to objects of less  
22 than 150 feet in height above the ground or water level at the location of the object  
23 or to objects located within areas zoned under s. 114.136 or to objects located within

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1 areas zoned under s. 62.23 (7) where the zoning ordinance enacted under said  
2 subsection controls the height of structures.

3 **SECTION 17.** 114.135 (7) (a) of the statutes is created to read:

4 114.135 (7) (a) In this subsection:

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

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

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

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

15 **SECTION 18.** 114.135 (7) (b) 3. of the statutes is created to read:

16 114.135 (7) (b) 3. A utility structure.

17 **SECTION 19.** 114.135 (7) (d) of the statutes is created to read:

18 114.135 (7) (d) 1. The secretary may not issue a permit under sub. (6) for a  
19 utility structure placed in service on or after the effective date of this subdivision ....  
20 [LRB inserts date], under par. (b) 3. unless the applicant has received federal  
21 aviation administration approval to install a light-mitigating technology system on  
22 the utility structure and the permit under sub. (6) includes as a condition that the

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1 applicant install the light-mitigating technology system no later than 24 months  
2 after issuance of the permit.

3 2. No person may install a light-mitigating technology system on a utility  
4 structure unless the person is approved by the federal aviation administration to  
5 perform that installation. A person who is selected to install a light-mitigating  
6 technology system on a utility structure required under subd. 1. shall provide notice  
7 to the department and to the city, village, or town in which the utility structure is  
8 located, in the form and manner prescribed by the department, of the progress of  
9 the installation. If the installation is delayed beyond the 24-month installation  
10 requirement under subd. 1., the installer shall provide an update to the department  
11 and to the city, village, or town in which the utility structure is located on the  
12 reasons for the delay and the current status of the installation not less than once  
13 every 3 months. The department may establish policies and procedures to set a  
14 uniform schedule for submitting notice and updates pursuant to this subdivision.

15 3. No later than July 1, 2026, the owner of a utility structure placed in service  
16 before the effective date of this subdivision .... [LRB inserts date], for which a  
17 permit is issued under sub. (6) shall submit a report to the public service  
18 commission on the commercial feasibility of installing a light-mitigating technology  
19 system on the utility structure.

20 **SECTION 20.** 196.374 (3) (a) of the statutes is amended to read:

21 196.374 (3) (a) *In general.* The commission shall have oversight of programs  
22 under sub. (2). The commission shall maximize coordination of program delivery,  
23 including coordination between programs under subs. (2) (a) 1., (b) 1. and 2., and (c)  
24 and (7), ordered programs, low-income weatherization programs under s. 16.957,

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1 ~~renewable resource~~ low-carbon-emission energy source programs under s. 196.378,  
2 and other energy efficiency or renewable resource programs. The commission shall  
3 cooperate with the department of natural resources to ensure coordination of  
4 energy efficiency and renewable resource programs with air quality programs and  
5 to maximize and document the air quality improvement benefits that can be  
6 realized from energy efficiency and renewable resource programs.

7 **SECTION 21.** 196.378 (title) of the statutes is repealed and recreated to read:

8 **196.378 (title) Low-carbon-emission energy sources.**

9 **SECTION 22.** 196.378 (1) (ag) of the statutes is amended to read:

10 196.378 (1) (ag) “Baseline ~~renewable~~ low-carbon-emission percentage” means  
11 the average of an energy provider’s renewable energy percentage, as defined in par.  
12 (fm), 2023 stats., for 2001, 2002, and 2003.

13 **SECTION 23.** 196.378 (1) (am) of the statutes is amended to read:

14 196.378 (1) (am) “Biomass cofired facility” means a ~~renewable~~ low-carbon-  
15 emission facility in which biomass and conventional resources are fired together.

16 **SECTION 24.** 196.378 (1) (ar) of the statutes is amended to read:

17 196.378 (1) (ar) “Biomass” means a resource that derives energy from wood or  
18 plant material or residue, biological waste, crops grown for use as a resource or  
19 landfill gases. “Biomass” does not include garbage, as defined in s. 289.01 (9), or  
20 nonvegetation-based industrial, commercial, or household waste, except that  
21 “biomass” includes refuse-derived fuel used for a ~~renewable~~ low-carbon-emission  
22 facility that was in service before January 1, 1998.

23 **SECTION 25.** 196.378 (1) (b) of the statutes is amended to read:

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1           196.378 (1) (b) “Conventional resource” means a resource that derives energy  
2           from coal, oil, ~~nuclear power~~ or natural gas, except for natural gas used in a fuel cell.

3           **SECTION 26.** 196.378 (1) (e) and (em) of the statutes are created to read:

4           196.378 (1) (e) “Large solar electric generating facility” has the meaning  
5           given in s. 196.491 (1) (h).

6           (em) “Large wind electric generating facility” has the meaning given in s.  
7           196.491 (1) (i).

8           **SECTION 27.** 196.378 (1) (fg) of the statutes is amended to read:

9           196.378 (1) (fg) “~~Renewable~~ Low-carbon-emission energy” means electricity  
10          derived from a ~~renewable~~ low-carbon-emission resource.

11          **SECTION 28.** 196.378 (1) (fm) of the statutes is amended to read:

12          196.378 (1) (fm) “~~Renewable~~ Low-carbon-emission energy percentage”  
13          means, with respect to an electric provider for a particular year, the percentage that  
14          results from dividing the sum of the megawatt hours represented by the following  
15          by the total amount of electricity that the electric provider sold to retail customers  
16          or members in that year:

17           1. The ~~renewable~~ low-carbon-emission resource credits created from the  
18          electric provider’s total ~~renewable~~ low-carbon-emission energy in that year.

19           2. Any ~~renewable~~ low-carbon-emission resource credits in addition to the  
20          ~~renewable~~ low-carbon-emission resource credits specified in subd. 1. that the  
21          electric provider elects to use in that year.

22          **SECTION 29.** 196.378 (1) (fr) of the statutes is amended to read:

23          196.378 (1) (fr) “~~Renewable~~ Low-carbon-emission energy supplier” means a

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1 person from whom an electric provider purchases ~~renewable~~ low-carbon-emission  
2 energy at wholesale.

3 **SECTION 30.** 196.378 (1) (g) of the statutes is amended to read:

4 196.378 (1) (g) “~~Renewable~~ Low-carbon-emission facility” means an installed  
5 and operational electric generating facility, located in or outside this state, that  
6 generates ~~renewable~~ low-carbon-emission energy.

7 **SECTION 31.** 196.378 (1) (h) (intro.) of the statutes is amended to read:

8 196.378 (1) (h) (intro.) “~~Renewable~~ Low-carbon-emission resource” means any  
9 of the following:

10 **SECTION 32.** 196.378 (1) (h) 1. a. of the statutes is amended to read:

11 196.378 (1) (h) 1. a. A fuel cell that uses, as determined by the commission, a  
12 ~~renewable~~ low-carbon-emission fuel.

13 **SECTION 33.** 196.378 (1) (h) 1r. of the statutes is created to read:

14 196.378 (1) (h) 1r. A resource that derives electricity from nuclear power.

15 **SECTION 34.** 196.378 (1) (h) 2. of the statutes is amended to read:

16 196.378 (1) (h) 2. Any other resource, except a conventional resource, that the  
17 commission designates as a ~~renewable~~ low-carbon-emission resource in rules  
18 promulgated under sub. (4).

19 **SECTION 35.** 196.378 (1) (i) of the statutes is amended to read:

20 196.378 (1) (i) “~~Renewable~~ Low-carbon-emission resource credit” means a  
21 credit calculated in accordance with rules promulgated under sub. (3) (a) 1., 1m.,  
22 and 2.

23 **SECTION 36.** 196.378 (1) (o) of the statutes is amended to read:

24 196.378 (1) (o) “Total ~~renewable~~ low-carbon-emission energy” means the total

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1 amount of ~~renewable~~ low-carbon-emission energy that the electric provider sold to  
2 its customers or members in a year. “Total ~~renewable~~ low-carbon-emission energy”  
3 does not include any energy that is used to comply with the ~~renewable~~ low-carbon-  
4 emission energy requirements of another state. “Total ~~renewable~~ low-carbon-  
5 emission energy” includes all of the following:

6 1. ~~Renewable~~ Low-carbon-emission energy supplied by a ~~renewable~~ low-  
7 carbon-emission facility owned or operated by an affiliated interest or wholesale  
8 supplier of an electric provider and allocated to the electric provider under an  
9 agreement between the electric provider and the affiliated interest or wholesale  
10 supplier.

11 2. ~~Renewable~~ Low-carbon-emission energy purchased by an affiliated interest  
12 or wholesale supplier of an electric provider from a ~~renewable~~ low-carbon-emission  
13 facility that is not owned or operated by the affiliated interest or wholesale supplier,  
14 which ~~renewable~~ low-carbon-emission energy is allocated to the electric provider  
15 under an agreement between the electric provider and the affiliated interest or  
16 wholesale supplier.

17 **SECTION 37.** 196.378 (2) (title) of the statutes is amended to read:

18 196.378 (2) (title) ~~RENEWABLE~~ LOW-CARBON-EMISSION RESOURCE ENERGY.

19 **SECTION 38.** 196.378 (2) (a) 1. of the statutes is amended to read:

20 196.378 (2) (a) 1. No later than June 1, ~~2016~~ 2027, the commission shall  
21 prepare a report stating whether, by December 31, ~~2015~~ 2026, the state has met a  
22 goal of 10 percent of all electric energy consumed in the state being ~~renewable~~ low-  
23 carbon-emission energy. If the goal has not been achieved, the report shall indicate  
24 why the goal was not achieved and how it may be achieved, and the commission

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1 shall prepare similar reports biennially thereafter until the goal is achieved. The  
2 commission shall submit reports under this subdivision to the governor and chief  
3 clerk of each house of the legislature for distribution to the legislature under s.  
4 13.172 (2).

5 **SECTION 39.** 196.378 (2) (a) 2. a. to f. of the statutes are amended to read:

6 196.378 (2) (a) 2. a. For the years 2006, 2007, 2008, and 2009, each electric  
7 provider may not decrease its renewable energy percentage, as defined in sub. (1)  
8 (fm), 2023 stats., below the electric provider's baseline renewable percentage, as  
9 defined in sub. (1) (ag), 2023 stats.

10 b. For the year 2010, each electric provider shall increase its renewable  
11 energy percentage, as defined in sub. (1) (fm), 2023 stats., so that it is at least 2  
12 percentage points above the electric provider's baseline renewable percentage, as  
13 defined in sub. (1) (ag), 2023 stats.

14 c. For the years 2011, 2012, 2013, and 2014, each electric provider may not  
15 decrease its renewable energy percentage, as defined in sub. (1) (fm), 2023 stats.,  
16 below the electric provider's renewable energy percentage, as defined in sub. (1)  
17 (fm), 2023 stats., required under subd. 2. b.

18 d. Except as provided in subd. 2. f., for the year 2015, each electric provider  
19 shall increase its renewable energy percentage, as defined in sub. (1) (fm), 2023  
20 stats., so that it is at least 6 percentage points above the electric provider's baseline  
21 renewable percentage, as defined in sub. (1) (ag), 2023 stats.

22 e. Except as provided in subd. 2. f., for ~~each year after~~ the years 2015 through  
23 2025, each electric provider may not decrease its renewable energy percentage, as

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1 defined in sub. (1) (fm), 2023 stats., below the electric provider's renewable energy  
2 percentage, as defined in sub. (1) (fm), 2023 stats., required under subd. 2. d.

3 f. If an electric provider has a baseline renewable percentage, as defined in  
4 sub. (1) (ag), 2023 stats., that exceeds 12 percent and a renewable energy  
5 percentage, as defined in sub. (1) (fm), 2023 stats., that exceeds 14 percent for the  
6 year 2014, the electric provider shall maintain its renewable energy percentage, as  
7 defined in sub. (1) (fm), 2023 stats., in the years 2015 and thereafter through 2025  
8 and its low-carbon-emission energy percentage in the years 2026 and thereafter at  
9 a level that is at least 2 percentage points above its baseline renewable percentage,  
10 as defined in sub. (1) (ag), 2023 stats.

11 **SECTION 40.** 196.378 (2) (a) 2. em. of the statutes is created to read:

12 196.378 (2) (a) 2. em. Except as provided in subd. 2. f., for each year after  
13 2025, each electric provider may not decrease its low-carbon-emission energy  
14 percentage below the electric provider's renewable energy percentage, as defined in  
15 sub. (1) (fm), 2023 stats., required under subd. 2. d.

16 **SECTION 41.** 196.378 (2) (b) 5. of the statutes is amended to read:

17 196.378 (2) (b) 5. An electric provider that purchases ~~renewable~~ low-carbon-  
18 emission energy from a ~~renewable~~ low-carbon-emission energy supplier may use an  
19 allocated share of the ~~renewable~~ low-carbon-emission energy sold by the ~~renewable~~  
20 low-carbon-emission energy supplier to comply with a requirement under par. (a) 2.  
21 or to create a credit under sub. (3) (a), provided that the cost of the ~~renewable~~ low-  
22 carbon-emission energy is included in the price the electric provider paid the  
23 ~~renewable~~ low-carbon-emission energy supplier.

24 **SECTION 42.** 196.378 (2) (bm) of the statutes is amended to read:

1           196.378 (2) (bm) Each electric provider shall annually retire ~~renewable~~ low-  
2           carbon-emission resource credits sufficient to satisfy the electric provider's  
3           ~~renewable~~ low-carbon-emission energy percentage required under par. (a) 2.

4           **SECTION 43.** 196.378 (2) (c) of the statutes is amended to read:

5           196.378 (2) (c) No later than April 15 annually, or another annual date  
6           specified by the commission by rule, an electric provider shall submit a report to the  
7           commission that identifies the electric provider's ~~renewable~~ low-carbon-emission  
8           energy percentage for the previous year and describes the electric provider's  
9           compliance with par. (a) 2. and the electric provider's implementation plans for  
10          future compliance. Reports under this paragraph may include certifications from  
11          ~~renewable~~ low-carbon-emission energy suppliers regarding the sources and  
12          amounts of ~~renewable~~ low-carbon-emission energy supplied to the electric provider.  
13          The commission may specify the documentation that is required to be included with  
14          reports submitted under this paragraph. The commission may require that electric  
15          providers submit the reports in a proceeding, initiated by the commission under  
16          this section relating to the implementation of s. 1.12, or in a proceeding for  
17          preparing a strategic energy assessment under s. 196.491 (2). No later than 90 days  
18          after the commission's receipt of an electric provider's report, the commission shall  
19          inform the electric provider whether the electric provider is in compliance with par.  
20          (a) 2.

21          **SECTION 44.** 196.378 (2) (d) (intro.) of the statutes is amended to read:

22          196.378 (2) (d) (intro.) The commission shall allow an electric utility to  
23          recover from ratepayers the cost of providing total ~~renewable~~ low-carbon-emission  
24          energy to its retail customers in amounts that equal or exceed the percentages

**ASSEMBLY BILL 174****SECTION 44**

1 specified in par. (a). Subject to any approval of the commission that is necessary, an  
2 electric utility may recover costs under this paragraph by any of the following  
3 methods:

4 **SECTION 45.** 196.378 (2) (d) 2. of the statutes is amended to read:

5 196.378 (2) (d) 2. Establishing alternative price structures, including price  
6 structures under which customers pay a premium for ~~renewable~~ low-carbon-  
7 emission energy.

8 **SECTION 46.** 196.378 (2) (e) 2. of the statutes is amended to read:

9 196.378 (2) (e) 2. Notwithstanding reasonable efforts to protect against  
10 unreasonable increases in rates of the applicant's ratepayers or members,  
11 compliance with the deadline will result in unreasonable increases in rates of the  
12 applicant's ratepayers or members, including increases that are due to the  
13 discontinuation of federal renewable energy tax credits or other federal policies  
14 intended to reduce the acquisition costs of ~~renewable~~ low-carbon-emission energy.

15 **SECTION 47.** 196.378 (2) (e) 3. of the statutes is amended to read:

16 196.378 (2) (e) 3. Notwithstanding reasonable efforts to obtain required  
17 approvals, the applicant cannot comply with the deadline because the applicant or  
18 a supplier has experienced or will experience delays in receiving required siting or  
19 permitting approvals for ~~renewable~~ low-carbon-emission energy projects.

20 **SECTION 48.** 196.378 (2) (e) 4. of the statutes is amended to read:

21 196.378 (2) (e) 4. Notwithstanding reasonable efforts to secure transmission  
22 service, the applicant cannot comply with the deadline because the applicant faces  
23 transmission constraints that interfere with the economic and reliable delivery of  
24 ~~renewable~~ low-carbon-emission energy to the applicant's system.

## ASSEMBLY BILL 174

## SECTION 49

1       **SECTION 49.** 196.378 (3) (title) of the statutes is amended to read:

2       196.378 (3) (title) ~~RENEWABLE~~ LOW-CARBON-EMISSION RESOURCE CREDITS.

3       **SECTION 50.** 196.378 (3) (a) of the statutes is amended to read:

4       196.378 (3) (a) 1. Each megawatt hour of an electric provider's total ~~renewable~~  
5       low-carbon-emission energy creates one ~~renewable~~ low-carbon-emission resource  
6       credit for the electric provider. Subject to subd. 2., an electric provider that exceeds  
7       its ~~renewable~~ low-carbon-emission energy percentage required under sub. (2) (a) 2.  
8       may, in the applicable year, bank any excess ~~renewable~~ low-carbon-emission  
9       resource credits or any portion of any excess ~~renewable~~ low-carbon-emission  
10      resource credit for use in a subsequent year or sell any excess ~~renewable~~ low-carbon-  
11      emission resource credits or any portion of any excess ~~renewable~~ low-carbon-  
12      emission resource credit to any other electric provider at any negotiated price. An  
13      electric provider that creates or purchases a ~~renewable~~ low-carbon-emission  
14      resource credit or portion may use the credit or portion, as provided under par. (c),  
15      to establish compliance with sub. (2) (a) 2. The commission shall promulgate rules  
16      that establish requirements for the creation and use of a ~~renewable~~ low-carbon-  
17      emission resource credit created on or after January 1, 2004, including calculating  
18      the amount of a ~~renewable~~ low-carbon-emission resource credit, and for the  
19      tracking of ~~renewable~~ low-carbon-emission resource credits by a regional ~~renewable~~  
20      low-carbon-emission resource credit tracking system. The rules shall specify the  
21      manner for aggregating or allocating credits under this subdivision or sub. (2) (b) 4.  
22      or 5.

23      1m. The commission shall promulgate rules that allow an electric provider or  
24      customer or member of an electric provider to create a ~~renewable~~ low-carbon-

## ASSEMBLY BILL 174

## SECTION 50

1 emission resource credit based on use in a year by the electric provider, customer, or  
2 member of solar energy, including solar water heating and direct solar applications  
3 such as solar light pipe technology; wind energy; hydroelectric energy; geothermal  
4 energy; biomass; biogas; synthetic gas created by the plasma gasification of waste;  
5 densified fuel pellets described in sub. (1) (h) 1. i.; fuel described in sub. (1) (h) 1. j.;  
6 heat as described in sub. (1) (h) 1. k.; ~~or~~ heat that is a byproduct of a manufacturing  
7 process and is used to provide thermal energy for another purpose; or nuclear  
8 energy; but only if the use displaces the electric provider's, customer's, or member's  
9 use of electricity that is derived from conventional resources, and only if the  
10 displacement is verifiable and measurable, as determined by the commission. The  
11 rules shall allow an electric provider, customer, or member to create a ~~renewable~~  
12 low-carbon-emission resource credit based on 100 percent of the amount of the  
13 displacement. The rules shall also allow an electric provider, customer, or member  
14 to create a ~~renewable~~ low-carbon-emission resource credit under this subdivision  
15 regardless of when the source used to create the credit was placed in service. The  
16 rules may not allow an electric provider to create ~~renewable~~ low-carbon-emission  
17 resource credits under this subdivision based on ~~renewable~~ low-carbon-emission  
18 energy upon which ~~renewable~~ low-carbon-emission resource credits are created  
19 under subd. 1. The rules may also not allow an electric provider to create ~~renewable~~  
20 low-carbon-emission resource credits under this subdivision based on hydroelectric  
21 energy that is not eligible for creating ~~renewable~~ low-carbon-emission resource  
22 credits under subd. 1.

23 2. The commission shall promulgate rules for calculating the amount of a  
24 renewable resource credit, as defined in sub. (1) (i), 2023 stats., that is bankable

1 from a renewable facility, as defined in sub. (1) (g), 2023 stats., placed into service  
2 before January 1, 2004. The Except as provided in subd. 3., the amount of a  
3 bankable renewable resource credit, as defined in sub. (1) (i), 2023 stats., created on  
4 or after January 1, 2004, from ~~such~~ a renewable facility, as defined in sub. (1) (g),  
5 2023 stats., or a low-carbon-emission facility, except for such a renewable facility  
6 owned by a retail customer of an electric provider, is limited to the incremental  
7 increase in output from the ~~renewable~~ facility that is due to capacity improvements  
8 made on or after January 1, 2004.

9 **SECTION 51.** 196.378 (3) (a) 3. of the statutes is created to read:

10 196.378 (3) (a) 3. The commission shall promulgate rules for calculating the  
11 amount of a low-carbon-emission resource credit that is bankable from a low-  
12 carbon-emission facility that derives electricity from nuclear power placed into  
13 service before January 1, 2026. The amount of a bankable low-carbon-emission  
14 resource credit created on or after January 1, 2026, from such a low-carbon-  
15 emission facility, except a low-carbon-emission facility owned by a retail customer of  
16 an electric provider, is limited to the incremental increase in output from the low-  
17 carbon-emission facility that is due to capacity improvements made on or after  
18 January 1, 2026.

19 **SECTION 52.** 196.378 (3) (c) of the statutes is amended to read:

20 196.378 (3) (c) A renewable resource credit, as defined in sub. (1) (i), 2023  
21 stats., created under s. 196.378 (3) (a), 2003 stats., may not be used after December  
22 31, 2011. A renewable resource credit, as defined in sub. (1) (i), 2023 stats., or a low-  
23 carbon-emission resource credit created under par. (a) 1., 1m., or 2. may not be used  
24 after the 4th year after the year in which the credit is created, except the

**ASSEMBLY BILL 174****SECTION 52**

1 commission may promulgate rules specifying a different period of time if the  
2 commission determines that such period is necessary for consistency with any  
3 regional renewable resource credit trading program that applies in this state.

4 **SECTION 53.** 196.378 (4) of the statutes is amended to read:

5 196.378 (4) ~~RENEWABLE~~ LOW-CARBON-EMISSION RESOURCE RULES. The  
6 commission may promulgate rules that designate a resource, except for a  
7 conventional resource, as a ~~renewable~~ low-carbon-emission resource in addition to  
8 the resources specified in sub. (1) (h) 1. and 1m.

9 **SECTION 54.** 196.378 (4m) (title) of the statutes is amended to read:

10 196.378 (4m) (title) ~~ADDITIONAL RENEWABLE~~ LOW-CARBON-EMISSION  
11 RESOURCES REQUIREMENTS.

12 **SECTION 55.** 196.378 (4m) (a) of the statutes is amended to read:

13 196.378 (4m) (a) The commission may not impose on an electric provider any  
14 requirement that increases the electric provider's ~~renewable~~ low-carbon-emission  
15 energy percentage beyond that required under sub. (2) (a) 2. If an electric provider  
16 is in compliance with the requirements of sub. (2) (a) 2., the commission may not  
17 require the electric provider to undertake, administer, or fund any other ~~renewable~~  
18 low-carbon-emission energy program. This paragraph does not limit the authority  
19 of the commission to enforce an electric provider's obligations under s. 196.374.

20 **SECTION 56.** 196.378 (4m) (b) of the statutes is amended to read:

21 196.378 (4m) (b) An electric utility may, with commission approval,  
22 administer or fund a program that increases the electric utility's ~~renewable~~ low-  
23 carbon-emission energy percentage beyond that required under sub. (2) (a) 2. The

**ASSEMBLY BILL 174****SECTION 56**

1 commission may not order an electric utility to administer or fund a program under  
2 this paragraph.

3 **SECTION 57.** 196.378 (4r) of the statutes is amended to read:

4 196.378 (4r) REPORTS. No later than July 1 of each even-numbered year, the  
5 commission shall submit a report to the governor and chief clerk of each house of  
6 the legislature for distribution to the legislature under s. 13.172 (2) that evaluates  
7 the impact of the requirements of this section on the rates and revenue  
8 requirements of electric providers and compares that impact with the impact that  
9 would have occurred if ~~renewable~~ low-carbon-emission energy practices of electric  
10 providers were subject to market forces in the absence of the requirements of this  
11 section.

12 **SECTION 58.** 196.378 (5) (intro.) of the statutes is amended to read:

13 196.378 (5) PENALTY. (intro.) Any person who violates sub. (2) or any  
14 ~~renewable~~ low-carbon-emission energy supplier who provides an electric provider  
15 with a false or misleading certification regarding the sources or amounts of  
16 ~~renewable~~ low-carbon-emission energy supplied at wholesale to the electric  
17 provider shall forfeit not less than \$5,000 nor more than \$500,000. Forfeitures  
18 under this subsection shall be enforced by action on behalf of the state by the  
19 attorney general. A court imposing a forfeiture under this subsection shall consider  
20 all of the following in determining the amount of the forfeiture:

21 **SECTION 59.** 196.485 (1) (cr) of the statutes is created to read:

22 196.485 (1) (cr) "Incumbent transmission facility owner" includes a  
23 transmission company or transmission utility, regardless of whether this state is its  
24 principal place of business or where it is organized or headquartered.

## ASSEMBLY BILL 174

## SECTION 60

1           **SECTION 60.** 196.485 (1) (ef) of the statutes is created to read:

2           196.485 (1) (ef) “Regionally cost-shared transmission line” means a high-  
3           voltage transmission line that is eligible, in whole or in part, for regional cost  
4           sharing and is not subject to a right of first refusal in accordance with the tariff of  
5           the Midwest independent system operator.

6           **SECTION 61.** 196.485 (1) (hm) of the statutes is created to read:

7           196.485 (1) (hm) “Transmission facility contract” means a contract for the  
8           design of, construction of, or furnishing of materials for a transmission facility.

9           **SECTION 62.** 196.485 (3g) of the statutes is created to read:

10          196.485 (3g) INCUMBENT TRANSMISSION FACILITY OWNER RIGHTS. (a) *Rights.*  
11          Subject to the approval of the commission under s. 196.491 (3), an incumbent  
12          transmission facility owner has the right to construct, own, and maintain a  
13          transmission facility that has been approved for construction in the Midwest  
14          independent system operator’s transmission plan and that connects to  
15          transmission facilities owned by that incumbent transmission facility owner. The  
16          right to construct, own, and maintain a transmission facility that connects to  
17          transmission facilities owned by 2 or more incumbent transmission facility owners  
18          belongs individually and proportionally to each incumbent transmission facility  
19          owner, unless otherwise agreed upon in writing.

20          (b) *Commission procedure.* 1. If, in the Midwest independent system  
21          operator’s transmission plan, a regionally cost-shared transmission line has been  
22          approved for construction and connection to facilities owned by an incumbent  
23          transmission facility owner, the incumbent transmission facility owner shall give

**ASSEMBLY BILL 174****SECTION 62**

1 written notice to the commission regarding the owner's intent to construct, own,  
2 and maintain the regionally cost-shared transmission line no later than 90 days  
3 after approval of the transmission plan or 90 days after the effective date of this  
4 subdivision .... [LRB inserts date], whichever is later.

5 2. If an incumbent transmission facility owner indicates in its notice to the  
6 commission under subd. 1. that it does not intend to construct the regionally cost-  
7 shared transmission line, it shall in the notice fully explain the basis for that  
8 decision. In that case, the commission may determine whether the incumbent  
9 transmission facility owner or another entity is required to construct the regionally  
10 cost-shared transmission line, taking into consideration issues such as cost,  
11 efficiency, reliability, and other factors identified in this chapter.

12 **SECTION 63.** 196.485 (3j) of the statutes is created to read:

13 196.485 (3j) EFFECT OF CERTAIN ACTIONS. If the president of the United  
14 States issues a lawful executive order, the federal energy regulatory commission  
15 issues a lawful order or rule, or Congress enacts a valid statute and that executive  
16 order, order, rule, or statute has the effect of repealing or nullifying provisions of the  
17 Midwest independent system operator's tariff that allow the owner of a  
18 transmission facility to allocate costs of the transmission facility over a region  
19 encompassing more than one state, then subs. (1) (cr) and (ef), (3g), and (3r) (a) 4.  
20 are void effective on the date of that executive order, order, rule, or statute.

21 **SECTION 64.** 196.485 (3r) of the statutes is created to read:

22 196.485 (3r) COST CONTROL, COMPETITIVE BIDDING REQUIREMENTS AND  
23 OVERSIGHT.

24 (a) *Cost control, requirement of competition, and cost allocation.* With respect

**ASSEMBLY BILL 174****SECTION 64**

1 to a transmission facility for which an application is filed pursuant to s. 196.491 (3),  
2 the owner of the proposed transmission facility shall do all of the following:

3 1. In any application filed pursuant to s. 196.491 (3), provide to the  
4 commission an estimate of the cost to construct the transmission facility and  
5 documentation showing that this cost is the result of competitively bid transmission  
6 facility contracts pursuant to par. (b).

7 2. Until construction of the transmission facility is complete, provide to the  
8 commission an annual report that includes an updated estimate of the cost to  
9 construct the transmission facility and an explanation of changes from prior cost  
10 estimates provided under this subdivision or subd. 1.

11 3. No later than 30 days after the transmission facility is placed in service,  
12 provide evidence to the commission that transmission facility contracts performed  
13 in completing the transmission facility were awarded in compliance with par. (b).

14 4. With respect to a regionally cost-shared transmission line under sub. (3g)  
15 constructed by an incumbent transmission facility owner, as soon as practicable  
16 after the information is available, submit a report to the commission, the assembly  
17 speaker, the assembly minority leader, the senate majority leader, the senate  
18 minority leader, and the governor detailing the amount of the costs of the regionally  
19 cost-shared transmission line project that are being charged to energy consumers  
20 outside this state.

21 (b) *Competitive bidding process requirement.* 1. An owner of a proposed  
22 transmission facility for which a certificate of public convenience and necessity is  
23 required under s. 196.491 (3) shall let by contract a transmission facility contract if

**ASSEMBLY BILL 174****SECTION 64**

1 the estimated cost of performing the contract exceeds \$1,000,000, and shall comply  
2 with all of the following:

3 a. The bidding shall be on the basis of sealed competitive bids.

4 b. If fewer than 3 bids from responsible bidders are initially received for the  
5 contract, the owner shall solicit additional bids for at least 30 additional days. If  
6 fewer than 3 bids from responsible bidders are received after the additional bidding  
7 period, the owner shall document that circumstance.

8 c. The contract shall be awarded to the lowest responsible bidder.

9 2. a. An owner of a proposed transmission facility entering into a  
10 transmission facility contract that is required to be competitively bid under subd. 1.  
11 may require a person, before the person submits a bid for a transmission facility  
12 contract, to submit a statement containing information relating to financial ability,  
13 equipment, experience in the work prescribed by the transmission facility contract,  
14 and ability to safely perform the work prescribed by the transmission facility  
15 contract.

16 b. A person shall submit a statement described in subd. 2. a. in the manner  
17 and form designated by the owner of the proposed transmission facility.

18 c. The contents of a statement described in subd. 2. a. shall be confidential  
19 and may not be disclosed except upon the written order of the person submitting the  
20 statement, for necessary use by the owner of the proposed transmission facility in  
21 qualifying the person, for necessary use by the legislative audit bureau in  
22 conducting an audit described in par. (c) 1., or in cases of actions against, or by, the  
23 person or owner of the proposed transmission facility.

24 d. The owner of the proposed transmission facility shall evaluate a statement

**ASSEMBLY BILL 174****SECTION 64**

1 described in subd. 2. a. and shall find the maker of the statement either responsible  
2 or not responsible.

3 3. An owner of a proposed transmission facility may not separate a  
4 transmission facility contract into multiple transmission facility contracts to  
5 decrease the estimated costs of performing each of the transmission facility  
6 contracts below the threshold specified in subd. 1. to enter into the transmission  
7 facility contracts without complying with the requirements under subd. 1.

8 (c) *Audits.* 1. The legislative audit bureau shall conduct an audit of 15  
9 percent of transmission facility contracts that are subject to the requirements  
10 under par. (b) and that are performed related to constructing each transmission  
11 facility for which a certificate is issued under s. 196.491 (3). In addition, the  
12 legislative audit bureau shall conduct an audit of a transmission facility contract  
13 that is subject to the requirements under par. (b) and for which the joint legislative  
14 audit committee requests an audit. Within 30 days after completion of an audit  
15 under this subdivision, the legislative audit bureau shall file with the commission a  
16 detailed report thereof, including specific instances of any violations of par. (b).

17 2. Upon receipt of a report from the legislative audit bureau under subd. 1.,  
18 the commission shall open a docket to review the audit report, in which proceeding  
19 the commission shall hold a public hearing. The commission shall determine if the  
20 transmission facility owner violated any requirement under par. (b).

21 (d) *Rate of return on equity; recovery of debt.* 1. If the commission determines  
22 under par. (c) 2. that an owner of a transmission facility for which the transmission  
23 rates are determined by the federal energy regulatory commission violated par. (b),  
24 the owner shall seek approval of a tariff that provides a rate of return on equity that

**ASSEMBLY BILL 174****SECTION 64**

1 is either half of the base return on equity guaranteed with respect to the  
2 transmission facility or equal to the transmission facility owner's average cost of  
3 debt, whichever is higher.

4 2. a. Except as provided in subd. 2. b., if the cost to construct a transmission  
5 facility for which the transmission rates are determined by the federal energy  
6 regulatory commission exceeds the estimated cost provided to the commission  
7 under par. (a) 1. or 2. for the transmission facility, the owner of the transmission  
8 facility shall seek approval of a tariff with respect to the transmission facility that  
9 provides a rate of return on equity, for the portion of the cost to construct the  
10 transmission facility that exceeds the estimated cost provided under par. (a) 1. or 2.,  
11 that is either half of the base return on equity or equal to the transmission facility  
12 owner's average cost of debt, whichever is higher.

13 b. Costs that exceed the estimated cost for the facility provided to the  
14 commission under par. (a) 1. or 2. but that are prudently incurred or that are a  
15 result of force majeure may not be considered excess costs under subd. 2. a.

16 3. An owner of a transmission facility for which a certificate is issued under s.  
17 196.491 (3) may not seek to recover in rates approved by the federal energy  
18 regulatory commission an amount of equity in the transmission facility that  
19 exceeds 50 percent of the project costs.

20 **SECTION 65.** 196.491 (1) (ar) of the statutes is created to read:

21 196.491 (1) (ar) "Battery energy storage system" means a device that  
22 occupies one acre or more and that captures energy produced at one time, stores  
23 that energy for future use, and later delivers that energy as electricity.

24 **SECTION 66.** 196.491 (1) (e) of the statutes is amended to read:

**ASSEMBLY BILL 174****SECTION 66**

1           196.491 (1) (e) “Facility” means a large electric generating facility or a high-  
2   voltage transmission line, or a battery energy storage system.

3           **SECTION 67.** 196.491 (1) (h) of the statutes is created to read:

4           196.491 (1) (h) “Large solar energy system” has the meaning given in s.  
5   66.0401 (1e) (bk).

6           **SECTION 68.** 196.491 (1) (i) of the statutes is created to read:

7           196.491 (1) (i) “Large wind energy system” has the meaning given in s.  
8   66.0401 (1e) (bL).

9           **SECTION 69.** 196.491 (3) (a) 1m. of the statutes is created to read:

10          196.491 (3) (a) 1m. A person who files an application under subd. 1. for a large  
11   wind energy system, large solar energy system, or battery energy storage system  
12   proposed to be located on prime farmland, as defined in s. 93.74 (1) (d), having a  
13   productivity index, as defined in s. 93.74 (1) (e), of 0.6 or greater shall include with  
14   the application proof that the applicant has entered into contracts for the purchase  
15   of agricultural conservation easements required under s. 93.74 (2) (a).

16          **SECTION 70.** 196.491 (3) (a) 4. of the statutes is created to read:

17          196.491 (3) (a) 4. At least 45 days before a person files an application under  
18   subd. 1. for a large wind energy system, large solar energy system, or battery  
19   energy storage system, the person shall provide written notice of the proposed  
20   project to all of the following:

- 21           a. Each property owner located within one mile of a proposed project  
22           b. Each city, village, town, or county in which project facilities are proposed.  
23           c. The American Indian tribal governing body for any land under that body’s  
24   jurisdiction that is within the project boundary.

**ASSEMBLY BILL 174****SECTION 71**

**SECTION 71.** 196.491 (3) (a) 5. of the statutes is created to read:

196.491 (3) (a) 5. At least 45 days before a person files an application under subd. 1. for a large wind energy system, large solar energy system, or battery energy storage system, the person shall post notice of the proposed project by class 1 notice under ch. 985 in the official state newspaper.

**SECTION 72.** 196.491 (3) (a) 6. of the statutes is created to read:

196.491 (3) (a) 6. At least 45 days before a person files an application under subd. 1. for a large wind energy system, large solar energy system, or battery energy storage system, the person shall satisfy the requirement under s. 66.0401 (10). This subdivision does not require a person to enter into a economic development agreement with a political subdivision under s. 66.0401 (10) to file an application under subd. 1.

**SECTION 73.** 196.491 (3) (d) 9. of the statutes is created to read:

196.491 (3) (d) 9. For a large wind energy system, large solar energy system, or battery energy storage system, the applicant has provided the commission with documentation that the applicant consulted about the project with the American Indian tribal governing body for any land under that body's jurisdiction that is within the project boundary.

**SECTION 74.** 196.491 (3) (d) 10. of the statutes is created to read:

196.491 (3) (d) 10. For a large wind energy system, large solar energy system, or battery energy storage system, the applicant has provided the commission with a decommissioning and site restoration plan under s. 66.0401 (7) and a drainage plan under s. 66.0401 (11).

**SECTION 75.** 196.491 (3) (d) 11. of the statutes is created to read:

**ASSEMBLY BILL 174****SECTION 75**

1           196.491 (3) (d) 11. For a large wind energy system, large solar energy system,  
2 or battery energy storage system, all of the following apply:

3           a. Including the acres occupied by the facility proposed by the applicant, the  
4 total amount of acres of land in the town in which the facility is located that are  
5 occupied by a large wind energy system, a large solar energy system, or a battery  
6 energy storage system is not more than 2,000 acres.

7           b. Including the acres occupied by the facility proposed by the applicant, the  
8 total amount of acres of land in the county in which the facility is located that are  
9 occupied by a large wind energy system, a large solar energy system, or a battery  
10 energy storage system is not more than 5,000 acres.

11           **SECTION 76.** 238.15 (1) (g) of the statutes is amended to read:

12           238.15 (1) (g) It is not primarily engaged in real estate development,  
13 insurance, banking, lending, lobbying, political consulting, professional services  
14 provided by attorneys, accountants, business consultants, physicians, or health  
15 care consultants, wholesale or retail trade, leisure, hospitality, transportation, or  
16 construction, except construction of power production plants that derive energy  
17 from a ~~renewable~~ low-carbon-emission resource, as defined in s. 196.378 (1) (h).

18           **SECTION 77. Initial applicability.**

19           (1) LETTING OF TRANSMISSION FACILITY CONTRACTS BY BIDDING. The  
20 treatment of s. 196.485 (3r) first applies to a contract entered into, modified, or  
21 renewed on the effective date of this subsection.

22           (2) APPLICATIONS FOR LARGE WIND, LARGE SOLAR, AND BATTERY ENERGY  
23 SYSTEMS. The treatment of ss. 66.0401 (1e) (a), (am), (bk), (bL), (bm), (bn), (bo), (br),  
24 (cm), and (cs), (4) (a), (5) (a) and (e), (7), (8), (9), (10), (11), and (12) and 196.491 (1)

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1 (ar), (e), (h), and (i) and (3) (a) 1m., 4., 5., and 6. and (d) 9., 10., and 11. first applies  
2 to an application for approval of a large wind energy system, large solar energy  
3 system, or battery energy storage system under s. 66.0401 or 196.491 (3) submitted  
4 on the effective date of this subsection.

5 (3) PURCHASE OF EASEMENTS FOR LARGE WIND, LARGE SOLAR, AND BATTERY  
6 ENERGY SYSTEMS. The treatment of s. 93.74 first applies to a specified facility, as  
7 defined in s. 93.74 (1) (g), for which an application under s. 196.491 (3) is submitted  
8 on the effective date of this subsection.

9 (END)