2021–22 WISCONSIN STATUTES & ANNOTATIONS

Published March 22, 2024. Certified under s. 35.18.

Updated through 2023 Wisconsin Act 93 and through all Orders of the Controlled Substances Board affecting Chapter 961 and Supreme Court Orders filed before and in effect on March 22, 2024. Statutory changes effective after March 22, 2024, are designated by NOTES.

CHAPTER 1

SOVEREIGNTY AND JURISDICTION OF THE STATE

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1.01 State sovereignty and jurisdiction. The sovereignty and jurisdiction of this state extend to all places within the boundaries declared in article II of the constitution, subject only to such rights of jurisdiction as have been or shall be acquired by the United States over any places therein; and the governor, and all subordinate officers of the state, shall maintain and defend its sovereignty and jurisdiction. Such sovereignty and jurisdiction are asserted and exercised over the St. Croix River from the eastern shore thereof to the center or thread of the same, and the exclusive jurisdiction of the state of Minnesota to authorize any person to obstruct the navigation of said river east of the center or thread thereof, or to enter upon the same and build piers, booms or other fixtures, or to occupy any part of said river east of the center or thread thereof for the purpose of sorting or holding logs, is denied; such acts can only be authorized by the concurrent consent of the legislature of this state.

History: 1983 a. 538.

Cross–reference: See also article IX, of the Wisconsin Constitution. As to sky sovereignty, see s. 114.02.

Treaties between the federal government and Menominee tribe do not deprive the state of criminal subject matter jurisdiction over crimes committed by a Menominee tribal member outside of the reservation. Sturdevant v. State, 76 Wis. 2d 247, 251 N.W.2d 50 (1977).

Jurisdiction over crimes committed by tribal members on the Menominee reservation is vested in the federal and tribal governments. State v. LaTender, 86 Wis. 2d 410, 273 N.W.2d 260 (1979).

The state has no jurisdiction to prosecute a traffic offense committed by a Menominee tribal member on a highway within the boundaries of the Menominee reservation. State v. Webster, 114 Wis. 2d 418, 338 N.W.2d 474 (1983).

Property held in trust by the federal government for the Menominee tribe and tribal members is not subject to state taxation. The tribe and tribal members residing and working in Menominee County are not subject to the state income tax. 66 Atty. Gen. 290.

Discussing the jurisdictional relationship between the state and Menominee tribe. 70 Atty. Gen. 36.

Discussing state, county, and tribal jurisdiction to regulate traffic on streets in housing projects that have been built and are maintained by the Winnebago tribe on tribal lands. 78 Atty. Gen. 122.

As a general matter, Wisconsin is without power to tax Ojibwe lands owned by tribal members within the Bad River, Lac Courte Oreilles, Lac du Flambeau, and Red Cliff reservations created in an 1854 treaty. That is true even though the parcels in question are fully alienable, meaning their current owners can sell them at will. Under the facts of this case, the tribal lands were sold by past tribal owners to non–Indians before coming back into tribal ownership, but the one–time act of alienating reservation property to a non–Indian did not surrender the parcel's tax immunity for all time. Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin v. Evers, 46 F.4th 552 (2022).

1.02 United States sites and buildings. Subject to the conditions mentioned in s. 1.03 the legislature consents to the acquisitions heretofore effected and hereafter to be effected by the United States, by gift, purchase or condemnation proceedings, of the title to places or tracts of land within the state; and, subject to said conditions, the state grants, cedes and confirms to the United States exclusive jurisdiction over all such places and tracts. Such acquisitions are limited to the following purposes:

(1) To sites for the erection of forts, magazines, arsenals, dockyards, custom houses, courthouses, post offices, or other public buildings or for any purpose whatsoever contemplated by the 17th clause of section 8 of article one of the United States constitution.

(2) To all land now or hereafter included within the boundaries of Fort McCoy in townships 17, 18 and 19 north, ranges 2 and 3 west, near Sparta, in Monroe County, to be used for military purposes as a target and maneuvering range and such other purposes as the department of the army deems necessary and proper.

(3) To erect thereon dams, abutments, locks, lockkeepers' dwellings, chutes, or other structures necessary or desirable in improving the navigation of the rivers or other waters within and on the borders of this state.

(4) To the SW 1/4 of the NE 1/4 of section 6, township 19 north, range 2 west of the fourth principal meridian to be used for military purposes as a target and maneuvering range and such other purposes as the department of the army deems necessary and proper.

History: 1985 a. 135.

1.025 United States jurisdiction in Adams County. The legislature consents to the conveyance by lease with option to purchase to the United States of the institution and the land on which it is located in the town of New Chester, Adams County, described as follows: The entire section 15, township 16 north, range 7 east of the fourth principal meridian, consisting of 640 acres, and upon the execution of said lease the state grants, cedes and confirms to

the United States exclusive legislative jurisdiction over said place and tract, retaining concurrent jurisdiction solely to the extent that all legal process issued under the authority of the state may be served upon persons located on said place and tract. The authority granted in this section shall remain in effect for the duration of said lease and continue in effect in the event title passes to the United States at the termination of the lease.

History: 1973 c. 90; 1977 c. 418.

1.026 Apostle Islands land purchase. (1) LEGISLATIVE STATEMENT OF PURPOSE AND INTENT. (a) The legislature concurs with the stated purpose of Congress in authorizing the establishment of the Apostle Islands national lakeshore. It is therefor the purpose of this section to conserve and develop for the benefit, inspiration, education, recreational use, and enjoyment of the public certain significant islands and shorelands of this state and their related geographic, scenic and scientific values.

(b) It is the policy of the legislature that the Apostle Islands be managed in a manner that will preserve their unique primitive and wilderness character. The department of natural resources is directed before taking any action or making a decision concerning the Apostle Islands to make a finding that such an action or decision will ensure that the citizens of this state will be assured the opportunity for wilderness, inspirational primitive and scenic experiences in the Apostle Islands into perpetuity.

(2) JURISDICTION CEDED TO THE UNITED STATES. The consent of the state is given to the acquisition by the United States, in any manner authorized under an act of Congress, of lands lying within the boundaries of Apostle Islands national lakeshore, and jurisdiction is hereby ceded to the United States to all territory which is now or may be included within the lakeshore, except that the state shall retain concurrent jurisdiction in all cases, and such criminal process as may issue under the authority of the state against any persons charged with the commission of any offense within or without such areas, including, but not limited to, state laws and regulations governing hunting, fishing and trapping on those areas open to such activities, may be executed thereon in like manner as if such jurisdiction had not been ceded to the United States.

(3) LANDS TO BE CONVEYED. Notwithstanding any other law to the contrary, the department of natural resources, with the approval of the governor, is directed to donate and convey, upon request of the United States for purposes of the development of the lakeshore, all state−owned lands within the lakeshore boundary, as hereafter described: The state−owned lands on Basswood, Oak, Michigan and Stockton Islands in township 50 north, range 3 west; township 51 north, range 1 west; township 51 north, range 3 west, township 52 north, range 3 west, all in the town of La Pointe, Ashland County, Wisconsin. Each conveyance shall contain a provision that such lands shall revert to the state when they are no longer used for national lakeshore purposes as defined by section 7 of the Apostle Islands national lakeshore act of 1970 (P.L. 91−424; 84 stat. 880), except that such reversion does not apply to lands upon which capital improvements have been placed by the United States.

History: 1975 c. 51; 1975 c. 198 s. 62; 1979 c. 89.

1.03 Concurrent jurisdiction over United States sites; conveyances. The conditions mentioned in s. 1.02 are the following conditions precedent:

(1) That an application setting forth an exact description of the place or tract so acquired shall be made by an authorized officer of the United States to the governor, accompanied by a plat thereof, and by proof that all conveyances and a copy of the record of all judicial proceedings necessary to the acquisition of an unencumbered title by the United States have been recorded in the office of the register of deeds of each county in which such place or tract may be situated in whole or in part.

(2) That the ceded jurisdiction shall not vest in the United States until they shall have complied with all the requirements on their part of ss. 1.02 and 1.03, and shall continue so long only as the place or tract shall remain the property of the United States.

(3) That the state shall forever retain concurrent jurisdiction over every such place or tract to the extent that all legal and military process issued under the authority of the state may be served anywhere thereon, or in any building situated in whole or in part thereon.

1.031 Retrocession of jurisdiction. The governor may accept on behalf of the state, retrocession of full or partial jurisdiction over any roads, highways or other lands in federal enclaves within the state where such retrocession has been offered by appropriate federal authority. Documents concerning such action shall be filed in the office of the secretary of state and recorded in the office of the register of deeds of the county wherein such lands are located.

History: 1977 c. 26.

1.035 Wildlife and fish refuge by United States. (1) The state of Wisconsin consents that the government of the United States may acquire in this state, in any manner, such areas of land, or of land and water, as the United States deems necessary for the establishment of the "Upper Mississippi River Wildlife and Fish Refuge," in accordance with the act of congress approved June 7, 1924; provided, that the states of Illinois, Iowa and Minnesota grant a like consent, and all rights respectively reserved by said states, in addition to the reservation herein made, are hereby reserved to this state; and provided, further, that any acquisition by the government of the United States of land, or of land and water, shall first be approved by the governor, on the advice of the department of natural resources.

(2) The consent hereby given is upon the condition that the United States shall not, by an act of congress or by regulation of any department, prevent the state and its agents from going upon the navigable waters within or adjoining any area of land, or land and water, so acquired by the United States, for the purpose of rescuing or obtaining fish therefrom; and the state shall have the right to construct and operate fish hatcheries and fish rescue stations adjacent to the areas so acquired by the United States; and the navigable waters leading into the Mississippi and the carrying places between the same, and the navigable lakes, sloughs and ponds within or adjoining such areas, shall remain common highways for navigation and portaging, and the use thereof, as well to the inhabitants of this state as to the citizens of the United States, shall not be denied.

(3) The legal title to and the custody and protection of the fish in the navigable waters leading into the Mississippi River and in the navigable lakes, sloughs and ponds within or adjoining such areas in this state, is vested in the state, for the purpose of regulating the enjoyment, use, disposition and conservation thereof.

(4) The state retains jurisdiction in and over such areas so far that civil process in all cases, and such criminal process as may issue under the authority of the state against any persons charged with the commission of any offense within or without such areas, may be executed thereon in like manner as if this consent had not been given.

(5) Subject to the conditions specified in s. 1.02, the United States commissioner of fisheries may establish fish hatcheries within Wisconsin and may take fish or fish eggs from the waters of this state for propagation in such hatcheries. The United States commissioner of fisheries and authorized agents may conduct fish culture operations, rescue work, and all fishing and other operations necessary therefor in connection with such hatcheries in such manner and at such times as is considered necessary and proper by the commissioner and agents.

History: 1989 a. 56.

1.036 Bird reservations, acquisition by United States. Consent of this state is given to the acquisition by the United States by purchase, gift, devise, or lease of such areas of land or water, or of land and water, in Wisconsin, by and with the consent of the governor of the state, as the United States deems necessary for the establishment of migratory bird reservations in accordance with

the act of congress approved February 18, 1929, entitled "An Act to more effectively meet the obligations of the United States under the migratory bird treaty with Great Britain by lessening the dangers threatening migratory game birds from drainage and other causes by the acquisition of areas of land and of water to furnish in perpetuity reservations for the adequate protection of such birds; and authorizing appropriations for the establishment of such areas, their maintenance and improvement and for other purposes," reserving, however, to this state full and complete jurisdiction and authority over all such areas not incompatible with the administration, maintenance, protection, and control thereof by the United States under the terms of said act of congress.

1.04 United States sites exempt from taxation. Upon full compliance by the United States with ss. 1.02 and 1.03, relating to the acquisition of any place or tract within the state the governor shall execute in duplicate, under the great seal, a certificate of such consent given and of such compliance with ss. 1.02 and 1.03, one of which shall be delivered to such officer of the United States and the other filed with the secretary of state. Such certificate shall be sufficient evidence of such consent of the legislature and of such compliance with the conditions specified. All such places and tracts after such acquisition and while owned by the United States, shall be and remain exempt from all taxation and assessment by authority of the state.

History: 1981 c. 314 s. 146.

1.05 United States sites for aids to navigation. Whenever the United States shall desire to acquire title to any land belonging to the state and covered by the navigable waters of the United States, for sites for lighthouses, beacons, or other aids to navigation, the governor may, upon application therefor by any authorized officer of the United States, setting forth an exact description of the place desired, and accompanied by a plat thereof, grant and convey to the United States, by a deed executed by the governor in the name of the state and under the great seal, all the title of the state thereto; and such conveyance shall be evidence of the consent of the legislature to such purchase upon the conditions specified in s. 1.03.

History: 1989 a. 56.

1.055 National forest. (1) Consent of this state is given to the acquisition by the United States by purchase, gift, lease or condemnation, with adequate compensation therefor, of such areas of land not exceeding 2,000,000 acres as the United States deems necessary for the establishment of national forests in the state, in accordance with the act of congress approved June 7, 1924, and the board of commissioners of public lands are authorized to sell and convey for a fair consideration to the United States any state lands included within such areas; provided, that this state shall retain concurrent jurisdiction with the United States in and over such areas so far that civil process, in all cases, and such criminal process as may issue under the authority of this state against any persons charged with the commission of any crime within or without said areas, may be executed thereon in like manner as if this consent had not been given. Provided, further, that the boundaries of any areas so selected shall be first approved by the governor, the board of commissioners of public lands, the department of natural resources, and the county board of each county in which any such area is located.

(2) Power is conferred upon the congress of the United States to pass such laws and to make or provide for the making of such rules and regulations, of both a civil and criminal nature and provide punishment therefor, as in its judgment may be necessary for the administration, control and protection of such lands as may be acquired by the United States under sub. (1).

1.056 State conservation areas. Consent of this state is given to the United States to acquire by purchase, gift, lease or condemnation, with adequate compensation therefor, areas of land and water within boundaries approved by the governor and the county board of the county in which the land is located, for the establishment of state forests, state parks or other state conservation areas to be administered by the state under long−term leases, treaties or cooperative agreements, which the department of natural resources is hereby authorized to enter into on behalf of the state with the federal government.

1.06 Surveys by United States; adjustment of damages. Any person charged under the laws of the United States with the execution of a survey or any part thereof, may enter upon any lands in this state for the purpose of doing any act necessary to the performance of the survey. The person may erect on the lands any signals, temporary observatories or other small frame structures, establish permanent marks of stations, and encamp on the land. The person is liable for all actual damages done thereby. If the amount of the damages cannot be agreed upon by the person, or any representative of the federal government, and the owner or occupant of the lands entered upon, either of them may petition the circuit court for the county in which the lands, or any part of them, are situated for the appointment of a day for the hearing of the parties and their witnesses and the assessment of the damages. The hearing shall be held at the earliest practicable time after 14 days' notice of the time and place is given to all the parties interested in the manner the court orders. The damages may be assessed by the court with or without a view of the premises. If the damages assessed do not exceed the sum tendered the occupant or owner of the land, the person who made the tender shall recover costs; if they are in excess of that sum, the other party shall recover costs, which shall be allowed and taxed in accordance with the rules of the court.

History: 1977 c. 449.

1.07 State coat of arms. The coat of arms of the state of Wisconsin is declared to be as follows:

ARMS.—Or, quartered, the quarters bearing respectively a plow, a crossed shovel and pick, an arm and held hammer, and an anchor, all proper; the base of shield resting upon a horn of plenty and pyramid of pig lead, all proper; over all, on fesse point, the arms and motto of the United States, namely: Arms, palewise of 13 pieces argent and gules; a chief azure; motto (on garter surrounding inescutcheon), "E pluribus unum".

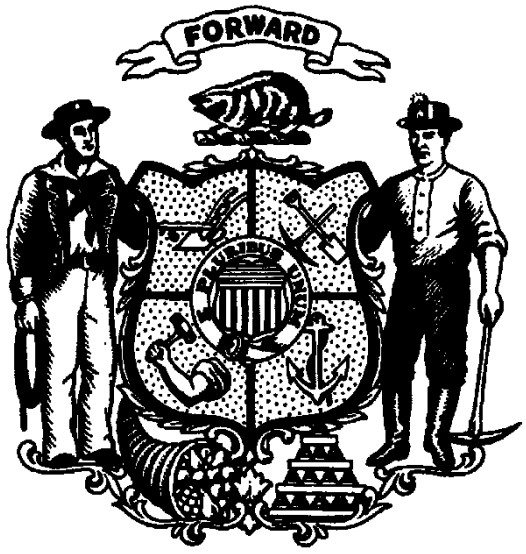
CREST.—A badger, passant, proper.

SUPPORTERS.—Dexter, a sailor holding a coil of rope, proper; sinister, a yeoman resting on a pick, proper.

MOTTO.—Over crest, "Forward".

History: 1975 c. 41.

NOTE: An example of the state coat of arms is shown below:



1.08 State flag. (1) The Wisconsin state flag consists of the following features:

(a) Relative dimensions of 2 to 3, hoist to fly.

(b) A background of royal blue cloth.

(c) The state coat of arms, as described under s. 1.07, in material of appropriate colors, applied on each side in the center of the field, of such size that, if placed in a circle whose diameter is equal to 50 percent of the hoist, those portions farthest from the center of the field would meet, but not cross, the boundary of the circle.

(d) The word "WISCONSIN" in white, capital, condensed Gothic letters, one−eighth of the hoist in height, centered above the coat of arms, midway between the uppermost part of the coat of arms and the top edge of the flag.

(e) The year "1848" in white, condensed Gothic numbers, one−eighth of the hoist in height, centered below the coat of arms, midway between the lowermost part of the coat of arms and the bottom edge of the flag.

(f) Optional trim on the edges consisting of yellow knotted fringe.

(2) The department of administration shall ensure that all official state flags that are manufactured on or after May 1, 1981 conform to the requirements of this section. State flags manufactured before May 1, 1981 may continue to be used as state flags.

History: 1979 c. 286.

1.09 Seat of government. Be it enacted by the council and house of representatives of the territory of Wisconsin, that the seat of government of the territory of Wisconsin, be and the same is located and established at the town of Madison, between the 3rd and 4th of the 4 lakes, on the corner of sections 13, 14, 23 and 24 in township 7, north, of range 9, east.

1.10 State song, state ballad, state waltz, state dance, and state symbols. (1) The Wisconsin state song is "On, Wisconsin", music written by W. T. Purdy, the words to which are as follows: "On, Wisconsin! On, Wisconsin! Grand old badger state! We, thy loyal sons and daughters, Hail thee, good and great. On, Wisconsin! On, Wisconsin! Champion of the right, 'Forward', our motto — God will give thee might!".

(1m) The Wisconsin state ballad is "Oh Wisconsin, Land of My Dreams," music written by Shari A. Sarazin and lyrics written by Erma Barrett, the words to which are as follows: "Oh Wisconsin, land of beauty, with your hillsides and your plains, with your jackpine and your birch tree, and your oak of mighty frame. Land of rivers, lakes and valleys, land of warmth and winter snows, land of birds and beasts and humanity, oh Wisconsin, I love you so. Oh Wisconsin, land of my dreams. Oh Wisconsin, you're all I'll ever need. A little heaven here on earth could you be? Oh Wisconsin, land of my dreams. In the summer, golden grain fields; in the winter, drift of white snow; in the springtime, robins singing; in the autumn, flaming colors show. Oh I wonder who could wander, or who could want to drift for long, away from all your beauty, all your sunshine, all your sweet song? Oh Wisconsin, land of my dreams. Oh Wisconsin, you're all I'll ever need. A little heaven here on earth could you be? Oh Wisconsin, land of my dreams. And when it's time, let my spirit run free in Wisconsin, land of my dreams."

(1r) The Wisconsin state waltz is "The Wisconsin Waltz," music and lyrics written by Eddie Hansen, the words to which are as follows: "Music from heaven throughout the years; the beautiful Wisconsin Waltz. Favorite song of the pioneers; the beautiful Wisconsin Waltz. Song of my heart on that last final day, when it is time to lay me away. One thing I ask is to let them play the beautiful Wisconsin Waltz. My sweetheart, my complete heart, it's for you when we dance together; the beautiful Wisconsin Waltz. I remember that September, before love turned into an ember, we danced to the Wisconsin Waltz. Summer ended, we intended that our lives then would both be blended, but somehow our planning got lost. Memory now sings a dream song, a faded love theme song; the beautiful Wisconsin Waltz."

(2) The Wisconsin state dance is the polka.

(3) The Wisconsin state symbols are as follows:

(a) The mourning dove (zenaidura macroura corolinensis linnaus) is the symbol of peace.

(b) Milk is the state beverage.

(c) The sugar maple (acer saccharum) is the state tree.

(d) Corn (Zea mays) is the state grain.

(e) The wood violet (viola papilionacea) is the state flower.

(f) The robin (turdus migratorius) is the state bird.

(g) The muskellunge (Esox masquinongy masquinongy Mitchell) is the state fish.

(h) The badger (taxidea taxus) is the state animal.

(i) The dairy cow (bos taurus) is the state domestic animal.

(j) The white−tailed deer (odocoileus virginianus) is the state wildlife animal.

(k) The American water spaniel is the state dog.

(L) The honey bee (apis mellifera) is the state insect.

(m) The trilobite (calymene celebra) is the state fossil.

(n) Galena (lead sulfide) is the state mineral.

(o) Red granite is the state rock.

(p) Antigo silt loam (typic glossoboralf) is the state soil.

(r) The cranberry (vaccinium macrocarpon) is the state fruit.

(s) The tartan whose thread count is described in this paragraph is the state tartan. The thread count for the state tartan shall begin with 44 threads of muted blue, followed by 6 threads of scarlet, 4 threads of muted blue, 6 threads of gray, 28 threads of black, 40 threads of dark green, 4 threads of dark yellow, 40 threads of dark green, 28 threads of black, 22 threads of muted blue, and 12 threads of dark brown, at which point the weave reverses, going through 22 threads of muted blue, and continuing the sequence in reverse order until the weave reaches the beginning point of 44 threads of muted blue, at which point the weave reverses again.

(t) The kringle is the state pastry.

(u) Cheese is the state dairy product.

(v) Ginseng is the state herb.

(4) The Wisconsin Blue Book shall include the information contained in this section concerning the state song, ballad, waltz, dance, beverage, tree, grain, flower, bird, fish, animal, domestic animal, wildlife animal, dog, insect, fossil, mineral, rock, soil, fruit, tartan, pastry, dairy product, and herb.

History: 1971 c. 14, 129, 167, 228, 307; 1977 c. 326; 1983 a. 33; 1985 a. 162, 295, 332; 1987 a. 279; 1989 a. 162; 1993 a. 411; 1999 a. 83, 186; 2001 a. 16; 2003 a. 174, 321; 2007 a. 217; 2013 a. 20; 2017 a. 8, 86.

1.11 Governmental consideration of environmental impact. The legislature authorizes and directs that, to the fullest extent possible:

(1) The policies and regulations shall be interpreted and administered in accordance with the policies set forth in this section and chapter 274, laws of 1971, section 1; and

(2) All agencies of the state shall:

(c) Include in every recommendation or report on proposals for legislation and other major actions significantly affecting the quality of the human environment, a detailed statement, substantially following the guidelines issued by the United States council on environmental quality under P.L. 91−190, 42 USC 4331, by the responsible official on:

1. The environmental impact of the proposed action;

2. Any adverse environmental effects which cannot be avoided should the proposal be implemented;

3. Alternatives to the proposed action;

4. The relationship between local short−term uses of the human environment and the maintenance and enhancement of long−term productivity;

5. Any irreversible and irretrievable commitments of resources that would be involved in the proposed action should it be implemented; and

6. Such statement shall also contain details of the beneficial aspects of the proposed project, both short term and long term, and the economic advantages and disadvantages of the proposal.

(d) Prior to making any detailed statement, the responsible official shall consult with and obtain the comments of any agency which has jurisdiction or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate agencies, which are authorized to develop and enforce environmental standards shall be made available to the governor, the department of natural resources and to the public. Every proposal other than for legislation shall receive a public hearing before a final decision is made. Holding a public hearing as required by another statute fulfills this section. If no public hearing is otherwise required, the responsible agency shall hold the hearing in the area affected. Notice of the hearing shall be given by publishing a class 1 notice, under ch. 985, at least 15 days prior to the hearing in a newspaper covering the affected area. If the proposal has statewide significance, notice shall be published in the official state newspaper;

(e) Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(h) Initiate and utilize ecological information in the planning and development of resource–oriented projects.

(j) Annually, no later than September 15, submit a report to the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2), including the number of proposed actions for which the agency conducted an assessment of whether an impact statement was required under par. (c) and the number of impact statements prepared under par. (c).

(4) Nothing in this section affects the specific statutory obligations of any agency:

(a) To comply with criteria or standards of environmental quality;

(b) To coordinate or consult with any other state or federal agency; or

(c) To act, or refrain from acting contingent upon the recommendations or certification of any other state or federal agency.

(5) The policies and goals set forth in this section are supplementary to those set forth in existing authorizations of agencies.

History: 1971 c. 274; 1973 c. 204; 1979 c. 89, 262; 1985 a. 29, 332; 1991 a. 273; 1993 a. 184, 213; 2001 a. 103.

Cross–reference: See also chs. NR 150, PSC 4, TCS 4, and Trans 400 and ss. Adm 60.01, ATCP 3.07, DOC 335.01, DHS 18.01, NR 2.085, and SPS 301.01, Wis. adm. code.

The Wisconsin Environmental Protection Act, while not creating a public trust analogous to the public trust in the state's navigable waters, recognizes an interest sufficient to grant a person standing to question compliance with its provisions when it is alleged that agency action will harm the environment in the area where the person resides. Wisconsin's Environmental Decade, Inc. v. PSC, 69 Wis. 2d 1, 230 N.W.2d 243 (1975). But see Friends of the Black River Forest v. Kohler Co., 2022 WI 52, 402 Wis. 2d 587, 977 N.W.2d 342, 19–0299.

Counties are not "agencies of the state" within the meaning of sub. (2) (c). Robinson v. Kunach, 76 Wis. 2d 436, 251 N.W.2d 449 (1977).

Sub. (2) (e) is applicable to proceedings involving authorization of priority systems for the curtailment of natural gas service. Wisconsin's Environmental Decade, Inc. v. PSC, 79 Wis. 2d 161, 255 N.W.2d 917 (1977).

On judicial review of a state agency's decision not to prepare an environmental impact statement, the agency has the burden of producing a reviewable record reflecting a preliminary factual investigation into relevant areas of environmental concern and of showing a reasonable determination based on the same. Wisconsin's Environmental Decade, Inc. v. PSC, 79 Wis. 2d 409, 256 N.W.2d 149 (1977).

The lack of a Department of Natural Resources (DNR) prepared environmental impact statement did not invalidate a DNR order to close a landfill site. Holtz & Krause, Inc. v. DNR, 85 Wis. 2d 198, 270 N.W.2d 409 (1978).

The Department of Natural Resources' decision to limit the scope of a threshold decision to consideration of the impact of a segment of a proposed sewer interceptor was reasonable when the segment had: 1) independent utility; 2) a main purpose of fulfilling a local need; 3) logical termini; and 4) construction of the first segment did not compel construction of the second segment. Wisconsin's Environmental Decade, Inc. v. DNR, 94 Wis. 2d 263, 288 N.W.2d 168 (Ct. App. 1979).

An agency determination that an environmental impact statement was adequately prepared is reviewed under s. 227.20 [now s. 227.57]. Wisconsin's Environmental Decade, Inc. v. PSC, 98 Wis. 2d 682, 298 N.W.2d 205 (Ct. App. 1980).

The court erred in finding that this section applied to the Department of Industry, Labor and Human Relations' code compliance review procedure. Wisconsin's Environmental Decade, Inc. v. DILHR, 104 Wis. 2d 640, 312 N.W.2d 749 (1981).

An order establishing depreciation rates for a utility's nuclear plant did not require an environmental impact statement. Wisconsin's Environmental Decade, Inc. v. PSC, 105 Wis. 2d 457, 313 N.W.2d 863 (Ct. App. 1981).

Standing to challenge a final environmental impact statement requires that the agency decision directly cause injury to the interest of the petitioner, which must be an interest recognized by law. Fox v. DHSS, 112 Wis. 2d 514, 334 N.W.2d 532 (1983).

An environmental impact statement is not required when the project will have minor impacts on the environment but will have possible socio–economic impacts. Wisconsin's Environmental Decade, Inc. v. DNR, 115 Wis. 2d 381, 340 N.W.2d 722 (1983).

While the indirect secondary environmental effects may be influential in the content of an environmental impact statement, they are not necessarily controlling in determining the threshold question of whether an environmental impact statement is to be prepared. The presence of significant indirect effects or cumulative effects only increases the need for an environmental impact statement. Their presence alone does not require an environmental impact statement. Wisconsin's Environmental Decade, Inc. v. DNR, 115 Wis. 2d 381, 340 N.W.2d 722 (1983). But see Applegate–Bader Farm, LLC v. DOR, 2021 WI 26, 396 Wis. 2d 69, 955 N.W.2d 793, 18–1239.

Increased traffic congestion was a sufficient allegation of injury to acquire standing to challenge a final environmental impact statement. Milwaukee Brewers Baseball Club v. DHSS, 130 Wis. 2d 56, 387 N.W.2d 245 (1986).

When a state action did not come within an action type listed in Department of Administration rules, an environmental assessment was required. A determination following an assessment that an environmental impact statement was not required for a building constructed for the state by a private developer under a lease/purchase agreement was reasonable under the circumstances. Larsen v. Munz Corp., 167 Wis. 2d 583, 482 N.W.2d 332 (1992).

The test as to whether an environmental impact statement (EIS) should be conducted is one of reasonableness and good faith. When conditions for approval that compensate for any adverse environmental impacts are imposed, the statutory threshold of significant environmental impact is not crossed, and no EIS is required. State ex rel. Boehm v. DNR, 174 Wis. 2d 657, 497 N.W.2d 445 (1993).

Section 227.42 (1) does not grant a right to a contested case hearing regarding the need for an environmental impact statement. North Lake Management District v. DNR, 182 Wis. 2d 500, 513 N.W.2d 703 (Ct. App. 1994).

When the legislature has selected a specific project site, consideration of alternative sites is too remote and speculative and not reasonably related to the proposed project. Shoreline Park Preservation, Inc. v. DOA, 195 Wis. 2d 750, 537 N.W.2d 388 (Ct. App. 1995), 94–2512.

Discussing the burden of proving the adequacy of an environmental impact statement. Citizens' Utility Board v. PSC, 211 Wis. 2d 537, 565 N.W.2d 554 (Ct. App. 1997), 96–0867.

It was reasonable to suspend the requirement for a draft environmental impact statement and the corresponding comment period when legislatively imposed time constraints could not have been met if they were not suspended. Responsible Use of Rural & Agricultural Land v. PSC, 2000 WI 129, 239 Wis. 2d 660, 619 N.W.2d 888, 99–2430.

A court must assess an environmental impact statement (EIS) in light of the rule of reason, which requires an EIS to furnish only such information as appears to be reasonably necessary under the circumstances for evaluation of the project rather than to be so all–encompassing in scope that the task of preparing it would become either fruitless or well nigh impossible. While reasonable alternatives are to be considered, every potentiality need not be evaluated. Clean Wisconsin, Inc. v. PSC, 2005 WI 93, 282 Wis. 2d 250, 700 N.W.2d 768, 04–3179.

The environmental impact statement is an informational tool that does not compel a particular decision by the agency or prevent the agency from concluding that other values outweigh the environmental consequences of a proposed action. Clean Wisconsin, Inc. v. PSC, 2005 WI 93, 282 Wis. 2d 250, 700 N.W.2d 768, 04–3179.

In *Wisconsin's Environmental Decade, Inc.*, 115 Wis. 2d 381 (1983), the court held that alone, the alleged non–environmental effects of the project did not necessitate an environmental impact statement (EIS). However, that holding does not undermine the principle that indirect environmental effects may on their own become "significant" and necessitate an EIS. Applegate–Bader Farm, LLC v. DOR, 2021 WI 26, 396 Wis. 2d 69, 955 N.W.2d 793, 18–1239.

Agency Decisionmaking Under the Wisconsin Environmental Policy Act. Hanson. 1977 WLR 111.

1.12 State energy policy.

(1) DEFINITIONS. In this section:

(a) "Local governmental unit" has the meaning given in s. 19.42 (7u).

(b) "State agency" means an office, department, agency, institution of higher education, the legislature, a legislative service agency, the courts, a judicial branch agency, an association, society, or other body in state government that is created or authorized to be created by the constitution or by law, for which appropriations are made by law, excluding the Wisconsin Economic Development Corporation.

(2) CONSERVATION POLICY. A state agency or local governmental unit shall investigate and consider the maximum conservation of energy resources as an important factor when making any major decision that would significantly affect energy usage.

(3) GOALS. (a) *Energy efficiency.* It is the goal of the state to reduce the ratio of energy consumption to economic activity in the state.

(b) *Renewable energy resources.* It is the goal of the state that, to the extent that it is cost–effective and technically feasible, all

new installed capacity for electric generation in the state be based on renewable energy resources, including hydroelectric, wood, wind, solar, refuse, agricultural and biomass energy resources.

(c) *Afforestation.* It is the goal of the state to ensure a future supply of wood fuel and reduce atmospheric carbon dioxide by increasing the forested areas of the state.

(4) PRIORITIES. In meeting energy demands, the policy of the state is that, to the extent cost−effective and technically feasible, options be considered based on the following priorities, in the order listed:

(a) Energy conservation and efficiency.

(b) Noncombustible renewable energy resources.

(c) Combustible renewable energy resources.

(cm) Advanced nuclear energy using a reactor design or amended reactor design approved after December 31, 2010, by the U.S. Nuclear Regulatory Commission.

(d) Nonrenewable combustible energy resources, in the order listed:

1. Natural gas.
2. Oil or coal with a sulphur content of less than 1 percent.
3. All other carbon−based fuels.

(5) MEETING ENERGY DEMANDS. (a) In designing all new and replacement energy projects, a state agency or local governmental unit shall rely to the greatest extent feasible on energy efficiency improvements and renewable energy resources, if the energy efficiency improvements and renewable energy resources are cost−effective and technically feasible and do not have unacceptable environmental impacts.

(b) To the greatest extent cost−effective and technically feasible, a state agency or local governmental unit shall design all new and replacement energy projects following the priorities listed in sub. (4).

(6) SITING OF ELECTRIC TRANSMISSION FACILITIES. In the siting of new electric transmission facilities, including high−voltage transmission lines, as defined in s. 196.491 (1) (f), it is the policy of this state that, to the greatest extent feasible that is consistent with economic and engineering considerations, reliability of the electric system, and protection of the environment, the following corridors should be utilized in the following order of priority:

(a) Existing utility corridors.

(b) Highway and railroad corridors.

(c) Recreational trails, to the extent that the facilities may be constructed below ground and that the facilities do not significantly impact environmentally sensitive areas.

(d) New corridors.

History: 1977 c. 29; 1993 a. 414; 2003 a. 89; 2005 a. 74; 2011 a. 7; 2013 a. 20; 2015 a. 344.

NOTE: 1993 Wis. Act 414, which created subs. (1) and (3) to (5), contains extensive explanatory notes.

Cross−reference: See also ch. NR 150 and s. PSC 4.30, Wis. adm. code.

When the Public Service Commission (PSC) makes a determination under the plant siting law, s. 196.491, it applies sub. (4) in the context of determining whether to approve the requested plant siting. The question PSC should ask is: given the requirements of the plant siting law, what is the highest priority energy option that is also cost effective and technically feasible? Clean Wisconsin, Inc. v. PSC, 2005 WI 93, 282 Wis. 2d 250, 700 N.W.2d 768, 04−3179.

1.13 Land use planning activities. (1) In this section:

(a) "Local governmental unit" has the meaning given in s. 1.12 (1) (a).

(b) "State agency" has the meaning given in s. 1.12 (1) (b).

(2) Each state agency, where applicable and consistent with other laws, is encouraged to design its programs, policies, infrastructure and investments of the agency to reflect a balance between the mission of the agency and the following local, comprehensive planning goals:

(a) Promotion of the redevelopment of lands with existing infrastructure and public services and the maintenance and rehabilitation of existing residential, commercial and industrial structures.

(b) Encouragement of neighborhood designs that support a range of transportation choices.

(c) Protection of natural areas, including wetlands, wildlife habitats, lakes, woodlands, open spaces and groundwater resources.

(d) Protection of economically productive areas, including farmland and forests.

(e) Encouragement of land uses, densities and regulations that promote efficient development patterns and relatively low municipal, state governmental and utility costs.

(f) Preservation of cultural, historic and archaeological sites.

(g) Encouragement of coordination and cooperation among nearby units of government.

(h) Building of community identity by revitalizing main streets and enforcing design standards.

(i) Providing an adequate supply of affordable housing for individuals of all income levels throughout each community.

(j) Providing adequate infrastructure and public services and an adequate supply of developable land to meet existing and future market demand for residential, commercial and industrial uses.

(k) Promoting the expansion or stabilization of the current economic base and the creation of a range of employment opportunities at the state, regional and local levels.

(L) Balancing individual property rights with community interests and goals.

(m) Planning and development of land uses that create or preserve varied and unique urban and rural communities.

(n) Providing an integrated, efficient and economical transportation system that affords mobility, convenience and safety and that meets the needs of all citizens, including transit−dependent and disabled citizens.

(3) Consistently with other laws, each state agency, whenever it administers a law under which a local governmental unit prepares a plan, is encouraged to design its planning requirements in a manner that makes it practical for local governmental units to incorporate these plans into local comprehensive plans prepared under s. 66.1001.

History: 1999 a. 9, 148; 2001 a. 30.

1.14 Display of flag at public buildings, structures, and facilities. (1) In this section:

(a) "Local governmental unit" has the meaning given in s. 16.97 (7).

(b) "State agency" has the meaning given for "agency" under s. 16.70 (1e).

(c) "State authority" has the meaning given for "authority" under s. 16.70 (2).

(2) Each state agency, state authority, and local governmental unit shall ensure that each United States flag that is displayed at each building, structure, or facility that is owned or occupied entirely by the agency, authority, or unit is manufactured in the United States.

History: 2007 a. 166.