

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0354/1dn
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March 7, 2008

Senator Vinehout:

This drafter's note is to alert you that an argument could be made that the substitute amendment violates a city's or village's home rule authority (see article XI, section 3, of the Wisconsin Constitution), although I don't think this is a very strong argument. The substitute amendment deals with an area of mixed state and local authority, but it seems that many of the issues the wind energy system siting review board's (board) rules may address, such as decommissioning, electrical connections to the power grid, and interference with radio, telephone, or television signals, are clearly of paramount state interest. In addition, the legislation applies to all cities and villages equally, and local action is not totally preempted. Under the substitute amendment, local ordinances must be consistent with the board's rules, but may not be more restrictive than those rules. This "no more restrictive" language suggests that there is some flexibility for local regulation in this area.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.wisconsin.gov

This substitute amendment does not make any appropriation to cover the wind energy system siting review board's expenses in reviewing decisions. Please let me know whether you want to address this issue. Note that a similar issue applies to SB 544, as the bill does not make an appropriation to the PSC for the PSC's review of decisions.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov