

09hr\_AC-EU\_ab0256\_pt01



(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ...  
PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on Energy and Utilities...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Stefanie Rose (LRB) (December 2012)



- Mark Reihl, Madison — WI State Council of Carpenters
- Bill Jordahl, Madison — Alliant Energy
- Bill Skewes, Madison — Wisconsin Utilities Association
- John Sumi, Madison — Madison Gas and Electric
- Joel Haubrich, Milwaukee — WE Energies
- Douglas Larson, De Pere — Orion Construction
- Lisa Sanders, Fond Du Lac — Michels Corp
- RJ Pirlot, Madison — Wisconsin Manufacturers & Commerce
- Brian Rude, LaCrosse — Dairyland Power
- Scott Reimer, Rice Lake — Rice Lake Utilities
- Todd Stuart, Madison — Wis Industrial Energy Group
- Matt Bromley, Madison — Customers First Coalition
- David Gonzalez, Reedsburg — Planet Turbine
- Sheryl Albers, Reedsburg — Planet Turbine
- Yoichi Kyori, Merrimac

Appearances Against

- Curt Kindschuh, Brownsville
- Lynda Barry-Kawula, Brodhead
- Kevin Kawula, Brodhead
- Jim Bembinster, Evansville
- David Olsen, Evansville
- Cathy Bembinster, Evansville
- Dennis Malchow, Campbellsport
- Ralph Prescott, Chilton
- Kris Meixensperger, Malone
- Rychard Borys, Stoughton
- James Congdon, Horicon
- Nicole Pingel, Chilton
- Dean Heimermann, Chilton
- Diane Hoerth, Chilton
- Patricia Bal, Pulaski
- Erv Selk, Chilton
- Marsha Tuchscherer, Seymour
- DuWayne Klessig, Chilton
- Joan Karls, Chilton
- Mike Schmitz, Chilton
- Debra Heil, Cambria
- John Heil, Cambria
- Joan Mitchell, Brodhead
- Kenneth Critzman, Ettrick
- Matt Gaboda, Evansville

- Marlean Hedrich, Chilton
- Jeff Roberts, Mishicot
- Trena Peckham, Mishicot
- Cheryl Leonard, Eden
- Tony Leonard, Eden
- Mary Nelesen, Chilton
- Joseph Nelsen, Chilton
- James Vollmer, Malone
- Larry Lamont, Malone
- Joan Lagerman, Malone
- Donovan Mitchell, Brodhead
- Nancy Horton, Ettrich
- Joel McIlrath, Arlington
- Lori McIlrath, Arlington
- Sue Deuth, Arlington
- James Deuth, Arlington
- Douglas Fries, Norwalk
- Donald Reimer, Ettrick
- Kathleen Weber, Malone
- Elizabeth Ebertz, St. Cloud
- Jerome Hlinale, Two Rivers
- Lynn Korinek, Mishicot
- Dean Anhalt, Mishicot
- Irene Senn, West Allis
- Betty Wolcott, Osseo
- Ric Van Sistine, Hilbert
- Martin Rudy, Chilton
- Patrick Klar, Platteville
- Emily Klar, Platteville
- Susan Klar, Platteville
- Carrie Klar, Platteville
- Jenna Klar, Platteville
- Scott Chase, Cambria
- Lil Pipping, Elkhart Lake — WI Wildlife Federation
- Richard Oliver, Cambria
- Graceann Toberman, Brodhead
- Kurt Toberman, Brodhead
- Janielle Hanson, Cambria
- Jeffrey Bump, Cambria
- Sharon Wunsch, Brownsville
- Hollie Doherty, Arlington
- Bob Welch, Madison — CWEST

- Jerry Derr, Columbus — WI Towns Association
- Kendall Schneider, Evansville
- Bob Ziegelbauer, Manitowoc — Rep.
- Gerry Meyer, Brownsville
- Larry Wunsch, Brownsville
- Ann Wirtz, Oakfield
- Daniel Hedrich, Chilton
- Gerhald Hansel, Appleton
- Dave Vind, Arcadia
- Deloras Vind, Arcadia
- Damon Reabe, Waupun — Reabe Spraying Service
- Gary Sleinich, Cambria
- Bruce Dalka, Malone
- Pat Laughlin, Hilbert
- Chuck Schneider, Chilton

Appearances for Information Only

- Glen Schwalbach, DePere
- Monica Groves Batiza, Madison — WI Counties Accociation

Registrations For

- Betsy Abramson, Madison
- Joe Alt, Cuba City
- Steve ANderson, Madison — Johnson Controls
- Scott Arnold, Twin Lakes — Local 139
- Becky Bains, Deerfield
- Ed Blume, Madison — REnew WI
- Jeff Blume, Madison
- Jim Boullion, Madison
- Dennis Briley, Waukesha
- Dan Burke, Madison
- Hilary Carroll, Madison
- Jason Childress, Madison — ATC
- William Dean, Madison
- Bob Dei, Appleton
- Chris Deisinger, Madison
- Dana Dentiu, Madison
- Roger Diehl, Madison
- Mary Lou Diehl, Madison
- Nicole Diol, Madison
- Ronald Donar, Cuba City — Wind Capital
- Brenda Donar, Cuba City

- Melvin Donar, Cuba City
- Mark Edge, Madison
- Gerald Flakas, Delafield
- Al Fogel, Genoa
- Matt Frank, Madison — DNR
- John Frautz, Monroe — RENEW WI
- Jessica Garrels, Madison
- Mark Gauf, Reedsburg
- Jennifer Gregerich, Madison — WI League of Conservation Voters
- Karl Grünewald, Cedarburg
- Gary Haltaufderheide, Sun Prairie
- Paul Heinen, Madison — DNR
- Jerry Heinzen, Manitowoc
- Ann Hippensteel, Sturgeon Bay
- Mark Hirsch, Platteville
- Randy Hopper, Fond du Lac — Senator
- Emily Jenner, Madison
- Greg Josters, Combined Locks — Orion Construction
- Robb Kahl, Madison
- Andrea Kaminski, Madison — League of Women Voters
- Peter Kammer, Madison — CREWE
- Brian Kelly, Madison
- Steven Kerr, Hartland
- Shaina Kilcoyne, DeForest
- Amy Klusmeier, Madison
- Judith Knight, Milwaukee
- Dan Kohler, Madison
- Dylan Kox, Madison
- Josh Kuhl, Manitowoc
- Rebecca Larson, Madison — Xcel Energy
- Jonathan Lee, Madison
- Troy Littlejohn, LaCrosse — Operating Engineers
- Kiril Lozanov, Madison
- Jeff Lyon, Madison — Wisconsin Farm Bureau
- Travis Martzahl, Hartford
- Kate Mast, Madison
- Bill McClenahan, Madison — Invenergy Wind LLC, Forest  
County Potawatomi
- Mark McFadden, Madison
- Gaelen McFadden, Madison
- James Meicher, Madison
- Scott Meske, Sun Prairie — MEUW

- Ezra Meyer, Madison
- Amber Meyer-Smith, Madison — Clean Wisconsin
- Emily Miota, Milwaukee
- Carli Morgan, Madison
- Pat Nelson
- Katie Nekola, Madison
- James Nodorft, Platteville
- Lindsay North, Madison
- Mark Osten, Verona
- Robert Owen Jr., Middleton
- Randy Patrow, Eau Claire — Operating Engineers Local 139
- Gary Peterson, Madison — American Planning Association WI

Chapter

- Dave Pribnow, Fond Du Lac
- Jayce Redmer, Waterford
- Mark Redsten, Madison
- Darren Rohde, Twin Lakes
- Matt Roman, Madison
- Scott Rubin, Madison
- Ben Schicker, Fitchburg — EcoEnergy
- Kerry Schumann, Madison
- Sarah Schwenker, Milwaukee
- Thomas Seiler, Manitowoc
- Noah Silverman, Madison
- Andrew Selk, Madison
- Hugh Severson, Galesville
- Rebecca Severson, Galesville
- Megan Severson, Galesville
- Leonard Shelton, Prairie Du Sac
- Judy Skog, Madison
- Wes Slaymaker, Madison
- Daniel Sobotta, Whitehall
- Mike Stranz, Chippewa Falls — WI Farmers Union
- Robert Strous, Brooklyn — Wave Wind LLC
- Scott Thompson, Madison
- Danyl Thorne, Cuba City
- Scott Tyre, Madison — Associated Building Contractors
- Anthony Uhl, Madison
- Karen Upper, Cross Plains
- Stuart Utley, Madison
- David Vitse, Madison
- Katy Walter, Madison

- Scott Watson, Madison
- Amanda Wegner, Madison
- Sam Weis, Rhinelander
- Shahla Werner, Madison — Sierra Club - John Muir Chapter
- Angela West-Blank, Middleton
- Matthew Wessale, Madison — WISPIRG
- Elizabeth Wheeler, Madison
- Pamela Wiesen, Madison
- Judy Ziewacz, Madison — Office of Energy Independence
- Erik Zoerb, Mt. Horeb
- Betsey Day, Madison

Registrations Against

- Becky Bartlett, Brodhead — Magnolia Township
- Kurt Bartlett, Brodhead — Magnolia Township
- Brad Boycks — WI Builders Association
- George Brandt, Arcadia
- Mary Brandt, Cuba City
- Dave Brown, Janesville
- Herb Buhl, New Holstein
- Kay Chase, Cambria
- Cheryl Congdon, Horicon
- Jim Connors, Madison
- Marlene Cox, Tomah
- Robert Cox, Tomah
- Brett Davis, Oregon — Rep., 80th Assembly District
- Terri Droessler, Cuba City
- Pete DeBoer, Cambria
- Albert Ebert, Chilton
- Inese Epstein, Norwalk
- Renee Exum, Evansville
- Danny Foote, Blair
- Candy Gehl, Hilbert
- Jane Gehl, Sherwood
- Paul Gehl, Hilbert — CWEST
- Dolores Gergen, Milwaukee — Sr.
- Glen Roy Heimermann, Chilton — Cwest
- William Hellis Jr., Cuba City
- Ron Henry, Osseo
- Bob Hinderman, Cuba City
- Arthur Hoerth, Chilton
- Myron Johnson, Algoma



- Elizabeth Karls, Chilton
- Herbert Karls, Chilton
- Janine Karls, Chilton
- Linda Kieler, Cuba City
- Kim Kieler, Cuba City
- Terry Kieler, Cuba City
- Paul Kieltyka, Ettrick
- Andrew Konpacki, Denmark
- Brooke Krause, Poynette
- Randy Krause, Poynette
- Clarence Krueger, Hilbert
- Sandra Krueger, Hilbert
- Robert Krupp, Chilton
- Grace Kunz, Chilton
- Richard Kunz, Chilton
- Carol Lamont, Malone — Cwest
- Tom Larson, Madison
- Pat Lisowe, Chilton
- Brad Loeffelholz, Platteville
- Paul Ludwig, Chilton
- Susan Ludwig, Chilton
- Dennis Malchow, Campbellsport
- Eugene Meyers, Chilton — Cwest
- Ione Meyers, Chilton
- Joanne Meyer, Tomah
- Harold Meyer, Tomah
- Josh Minnich, Madison — WI Audobon Council
- Arthur Moehn, Hilbert
- Doris Moehn, Hilbert
- Rose Moehn, Hilbert
- Ron Muellenbach, Stockbridge
- Patrick Mulvaney, Norwalk
- Joe Nelsen, Chilton
- Mary Nelsen, Chilton
- Marjorie Nett, Chilton
- Marno Oliver, Cambria
- Anita Popp, Chilton
- Elsie Popp, Chilton
- Herbert Popp, Chilton
- Sandra Popp, Chilton
- Cordé Rea, Milwaukee — Sr.
- Michael Reese, Cuba City

- Robert Schmidt, Arlington
- Darlene Schmidt, Arlington
- Mary Schneider, Chilton
- Mike Schneider, Chilton
- Carol Seek, Chilton
- Delmer Slager, Cambria
- Paul Steffes, Chilton
- Anita Steinich, Cambria
- Jill Steinich, Cambria
- Marc Stroobants, Chilton
- Steve Stroobants, Chilton
- Todd Theil, Sherwood
- Wayne Udulutch, Janesville
- Mark Van Asten, Fond Du Lac
- Karen Van Asten, Fond Du Lac
- Dale Wagner, Arlington
- Peggy Welhouse, Poynette
- Jim Wiederholt, Cuba City
- Nancy Wiederholt, Cuba City
- Joann Wiederholt, Cuba City
- Darin Woelfel, Chilton
- Martha Woelfel, Chilton
- Steve Woelfel, Chilton
- Kathy Utley, Sun Prairie
- Douglas Zweizig, Evansville
- Lynn Willkom, Madison

Registrations for Information Only

- Elmer Miller, Cuba City

June 17, 2009

**EXECUTIVE SESSION HELD**

Present: (12) Representatives Soletski, Zepnick, Staskunas, Richards, Steinbrink, Parisi, Zigmunt, Huebsch, Montgomery, Honadel, Petersen and Zipperer.

Absent: (0) None.

**Assembly Substitute Amendment 1** introduced by the unanimous consent of the Committee on Energy and Utilities.

Moved by Representative Staskunas, seconded by Representative Montgomery that **Assembly Substitute Amendment 1** be recommended for adoption.

- Ayes: (11) Representatives Soletski, Zepnick, Staskunas, Richards, Steinbrink, Parisi, Huebsch, Montgomery, Honadel, Petersen and Zipperer.  
Noes: (1) Representative Zigmunt.

ASSEMBLY SUBSTITUTE AMENDMENT 1 ADOPTION  
RECOMMENDED, Ayes 11, Noes 1

Moved by Representative Staskunas, seconded by Representative Montgomery that **Assembly Bill 256** be recommended for passage as amended.

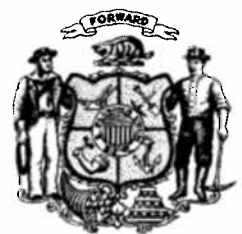
- Ayes: (10) Representatives Soletski, Zepnick, Staskunas, Richards, Steinbrink, Parisi, Huebsch, Montgomery, Honadel, Zipperer.  
Noes: (2) Representatives Zigmunt and Petersen.

PASSAGE AS AMENDED RECOMMENDED, Ayes 10, Noes 2

Steven Peters  
Committee Clerk



# WISCONSIN STATE LEGISLATURE



Steve - Wind file

March 16, 2009

## Representative James Soletski

Chairman Committee on Energy and Utilities  
Room 307 West  
State Capitol  
P.O. Box 8953  
Madison, WI 53708-8953

Dear Representative Soletski

I have been inquiring about what effect industrial wind turbines will have on agricultural spraying. I have contacted Reabe Spraying Service Inc. for their opinion. Tom Reabe, President of Reabe Spraying Service has written a letter outlining their position on agricultural spraying in and around wind turbines. He lists several reasons why wind turbines create serious safety hazards for pilots. Reabe Spraying Service is the largest agricultural applicator in Wisconsin. Because of the obvious dangers to pilots the Reabe Spraying Service has elected not to operate within the lateral boundaries of industrial wind facilities. J.R. Reabe is a Board member of the National Agricultural Aviation Association (NAAA). He represents the Wisconsin Agricultural Aviation Association (WAAA). The WAAA has passed a resolution stating that members will not spray inside, or within one quarter mile outside a wind turbine facility boundary.

Many crop growers are unaware of this serious loss of ability to manage crop yield. Wind developers have gone so far as to tell farmers that agricultural spraying will not be a problem and not worry about it. Farmers who are unable to spray crops can expect a crop yield loss as high as 30%. Large growers like Seneca Foods require that the crops be sprayed. These contracts generate lots of money for farmers, and will be lost if the fields cannot be sprayed when required. Ground application will never replace aerial agricultural spraying.

The large footprint of the wind facilities makes this survey critical. Four of the recently commissioned wind facilities in Wisconsin cover 37,440 acres.

Blue Sky Green Field	10,600 acres	88 turbines	120.5 acres per turbine
Forward Energy	12,000 acres	86 turbines	139.5 acres per turbine
Cedar Ridge	7800 acres	41 turbines	190.2 acres per turbine
Butler Ridge	7040 acres	36 turbines	195.5 acres per turbine

Information presented in the form of pie charts by the Global Warming Task Force equates to 1,000,000 acres of land or more that will be covered by wind turbines in Wisconsin by 2024. State wide Wisconsin had a seven fold increase in wind turbine installations in 2008.

The Dept. of Agriculture should be contacted. A survey of all aerial applicators operating in Wisconsin should be done to determine what adverse effect the large turbine facilities will have on crop production. This is an important issue and I am asking that the Committee on Energy and Utilities make contact with the Dept. of Agriculture and request the survey.

Thank you for your time, consideration, and service to Wisconsin.

Sincerely,



Jim Bembinster  
18002 W CR C  
Evansville, WI 53536  
608-882-4592

Enclosure



# **REABE SPRAYING SERVICE, INC.**

**P.O. BOX 112**

**WAUPUN, WISCONSIN 53963-0112**



**WAUPUN 920-324-3510; PLAINFIELD 715-335-6810; PLOVER 715-341-9393**

February 27, 2009

James Bembinster  
18002 W CR C  
Evansville, WI 53536

Mr. Bembinster:

This letter is intended to inform you of Reabe Spraying Service's perception of hazards to aerial applicators when operating in or near wind farm developments. Large commercial wind farms create distraction, obstruction, and wake turbulence hazards that are life threatening to aerial applicators.

Modern wind turbines are very large structures, measuring approximately 400 feet high with a blade diameter of up to 270 feet. When you combine the physical size of these structures with blade rotation, the result is an object that captures your attention visually. Aerial application operations take place at low levels near obstructions such as power lines, trees, and buildings. Aerial applicators must divide their attention between aircraft systems, treatment volumes, swath spacing, aircraft performance, weather, and obstruction avoidance. When operating within a wind farm, the visual distraction created by the wind turbines further divides the pilot's attention, exponentially increasing the likelihood of a life threatening error.

In a typical commercial wind farm there are approximately 2.5 turbines per square mile. In any given aerial application operation, a radius of one mile from the target site is utilized for maneuvering between swath runs, equating to an operations area of approximately three square miles. This results in approximately seven turbines within the operations area. Unlike other obstructions that aerial applicators must avoid, wind turbines are taller than the maximum height achieved during the turnaround. This means that a pilot never reaches a safe altitude allowing the pilot to check aircraft systems, treatment volumes, etc. Simply said, the number and height of wind turbines within an aerial application area, exponentially increases the likelihood of a life threatening error.

Finally we come to the hazard of wake turbulence. This hazard is the most dangerous because it is invisible. All airfoils in motion create wake turbulence. The turbulence created is proportional to the weight and angle of attack of the airfoil; the heavier the weight and greater the angle of attack, the greater the wake turbulence. A commercial wind turbine's three blades can weigh as much as 40,000 pounds and operate at a very high angle of attack. The result is turbulence severe enough to induce loss of control to an aerial application aircraft. Again, this hazard is invisible and difficult to avoid while performing all of the other tasks necessary to perform an aerial application safely.

Due to the potential hazards mentioned above, Reabe Spraying Service has elected not to operate within the lateral boundaries of commercial wind farms.

Sincerely,

Tom Reabe  
President, Reabe Spraying Service  
Waupun, WI 53963

May 5, 2009

Dear Customer:

This letter is intended to inform you that Reabe Spraying Service has a policy prohibiting aerial application operations within a commercial wind farm. This will include fields within one quarter mile of the boundary. Below are the reasons for our policy:

Modern wind turbines are very large structures, measuring approximately 400 feet high with a blade diameter of up to 270 feet. When you combine the physical size of these structures with blade rotation, the result is a visual distraction. Aerial applicators must divide their attention between aircraft systems, treatment volumes, swath spacing, aircraft performance, weather, and obstruction avoidance. When operating within a wind farm, the visual distraction created by the wind turbines further divides the pilot's attention, exponentially increasing the likelihood of a life threatening error.

In a typical commercial wind farm there are approximately 2.5 turbines per square mile. In any given aerial application operation, a radius of one mile from the target site is utilized for maneuvering between swath runs, equating to an operations area of approximately three square miles. This results in approximately seven turbines within the operations area. Unlike other obstructions that aerial applicators must avoid, wind turbines are taller than the maximum height achieved during the turnaround. This means that a pilot never reaches a safe altitude allowing the pilot to check aircraft systems, treatment volumes, etc. Simply said, the number and height of wind turbines within an aerial application area, exponentially increases the likelihood of a life threatening error.

Finally we come to the hazard of wake turbulence. This hazard is the most dangerous because it is invisible. All airfoils in motion create wake turbulence. The turbulence created is proportional to the weight and angle of attack of the airfoil; the heavier the weight and greater the angle of attack, the greater the wake turbulence. A commercial wind turbine's three blades can weigh as much as 40,000 pounds and operate at a very high angle of attack. The result is turbulence severe enough to induce loss of control to an aerial application aircraft. Again, this hazard is invisible and difficult to avoid while performing all of the other tasks necessary to perform an aerial application safely.

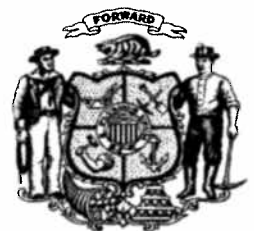
We encourage you to voice your opinion with local government regarding this potential threat to your access of our services. Additionally we invite you to visit Better Plan, Wisconsin's website: <http://betterplan.squarespace.com/>. This website can provide you with information from land owners and residents that are currently living within and around commercial wind farms and the effects of these wind farms on their communities. Lastly, we request you give us a call if you are aware or become aware of any activity regarding commercial wind farm development in your growing area.

Sincerely,

Tom, JR, Jeff, and Bob  
Reabe Spraying Service  
Waupun, WI 53963



# WISCONSIN STATE LEGISLATURE





# Wisconsin Towns Association

Richard J. Stadelman, Executive Director  
W7686 County Road MMM  
Shawano, Wis. 54166

715 584-2436

Tel. (715) 526-3157

Fax (715) 524-3917

Email: [wtowns1@frontiernet.net](mailto:wtowns1@frontiernet.net)

To: Senate Committee on Commerce, Utilities, Energy and Rail  
And Assembly Committee on Energy and Utilities  
From: Richard J. Stadelman, Executive Director  
Re: SB 185 and AB 256 relating to regulation of wind energy systems and rule-making authority of PSC  
Date: May 12, 2009

Wisconsin Towns Association is opposed to SB 185 and AB 256 relating to granting Public Service Commission (PSC) rule-making authority in relation to wind energy systems. Our Association believes that the bills go too far to take away local control in an area of law that town and county officials are responsible, i.e. public health and safety.

Current Wisconsin Statutes at Sec. 66.0401 provides as follows:

*(1) Authority to restrict systems limited. No county, city, town, or village 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, as defined in s. 66.0403 (1) (m), unless the restriction satisfies one of the following conditions:*

- (a) Serves to preserve or protect the public health or safety.*
- (b) Does not significantly increase the cost of the system or significantly decrease its efficiency.*
- (c) Allows for an alternative system of comparable cost and efficiency.*

This current law is a reasonable standard for courts to judge whether local units of government have adopted reasonable ordinances. Local officials should be allowed to make this decision what standards should be required for wind energy systems in their own communities. Under this statute the courts can review whether a local ordinance is necessary to protect public health or safety.

SB 185 and AB 256 would take this local decision making to protect public health and safety from the hands of local officials and establish a statewide standard for all communities, without regard to the circumstances in each community. One state wide standard should not be imposed in the case of "public health or safety" when the impacts of wind energy systems vary so greatly across the state.

Another reason our Association does not support these bills at this time is that the PSC is charged with the responsibility of generating more alternative energy sources by 2015. However, under this bill the PSC becomes the arbitrator in cases between the local government and the wind energy developers. Many of our members believe that the arbitrator in disputes over siting of wind energy systems should not be the same agency charged with responsibility with encouraging more alternative energy.

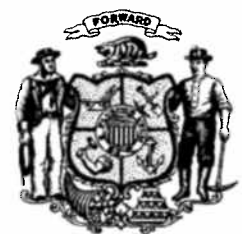
Wisconsin Towns Association believes a better process to resolve disputes in the siting of wind energy systems would be to retain the current standard under Sec. 66.0401 of Wisconsin Statutes as stated above, but then create a negotiation process and arbitration process between the local government and the wind energy developers. The negotiation process could address the standards required by the local government, with waivers granted upon agreement and showing that public health or safety will not be harmed. In the event negotiation can not resolve the dispute, we propose an arbitration process of three arbitrators selected as follows: one by the wind energy system developer, one by the local government, and the third a neutral person selected by the first two arbitrators. We would propose that the negotiations be limited to a fixed amount of time to give the developers some certainty of resolution of the dispute. We believe that the negotiation process would also allow for consideration of neighbors most directly impacted (specifically some financial consideration for having a wind energy next door to them).

Wisconsin Towns Association is willing to participate in any discussions that the state legislature may want to initiate through either a committee or informal process to develop an alternative to SB 185 and AB 256 which will allow for protection of the public health or safety and at the same time resolve the disputes that may come up between the local government's reasonable regulations and the wind energy developers. The model we are proposing is similar to models with landfill siting negotiations and livestock facility siting, with the exception that the arbitration is done at the local level. Our Association strongly believes that PSC is not the appropriate agency to resolve disputes in wind energy siting when the PSC has the charge of developing more alternative energy in our state.

Thank you for your consideration of our Association in this matter.



# WISCONSIN STATE LEGISLATURE





Insured: \_\_\_\_\_

Policy No.: \_\_\_\_\_

1828 Wisconsin Avenue • New Holstein, Wisconsin 53061  
Phone: 920-898-4488 • Wats: 1-800-657-0732 • Fax: 920-898-4847 • E-Mail: cem1873@charterinternet.com

Rep Soletski: 6-9-08

On May 12 there was a Public Hearing of the Assembly and Senate Committees on Energy. You cochaired that hearing. I have purchased and viewed the tapes of the hearing.

My concern is the testimony that a Mr. Chuck Schneider gave on Wind Turbines. Schneider is the Town Chairman of the Town of Brothertown, Calumet County. He stated that the Town of Brothertown residents do not want wind turbines. This is Schneider's personal opinion and not the people of township's opinion. He belongs to a group of people known as CC4BE who are very vocal and negative as far as wind energy is concerned. I am sending a copy of a Survey that was conducted in Town of Brothertown. It definitely contradicts what the Town Chairman said. I have highlited these questions and answers.

Thank You

Please vote in favor of these bills.

Jerry A. Criter  
W4648 Dick Rd  
Chilton WI 53014

DATE \_\_\_\_\_

INSURED'S SIGNATURE \_\_\_\_\_

AGENT'S SIGNATURE \_\_\_\_\_

# TOWN OF BROTHERTOWN COMPREHENSIVE PLANNING CITIZEN INPUT SURVEY RESULTS

1. What is your primary occupation?

employed (non-farm) 60% retired 27% farm 11% other 2%

2. What is your age:

6% 18-29      23% 30-44      29% 45-55      20% 56-65      22% Over 65

3. Are you currently a resident in the Town of Brothertown?

84% Yes (If "yes", please answer questions 3a – 3f below)

16% No (If "no", skip to question 4)

3a. How long have you been a resident in the Town of Brothertown? Average 28 years

3b. Is your residency 90% Full Time 10% Seasonal

Regarding your property in the Town of Brothertown:

3c. Do you currently: 94% Own property 4% Rent property 2% Neither

3d. Is your property a: 19% Full-time farm 11% Hobby farm 70% Non-farm

3e. Is your property: 25% Lakeshore 74% Non-lakeshore

3f. Is your dwelling: 92% A house 7% A mobile home 1% Other

Do you currently own agricultural land?

32% Yes (continue to question 4a)

68% No (skip to question 5)

4a. If you currently own agricultural land, what are your plans regarding the land in the next 10 years? (check all that apply)

49% Continue to farm

27% Pass the farm on to a family member

21% Retire on the farm

37% Rent all or a portion of the land for farming purposes

3% Rent all or a portion of the land for non-farming purposes

7% Sell the entire farm

4% Sell a portion of the farm

8% Put all or a portion of the land into conservation set-aside

11% Develop all or a portion of the land

11% Don't know

5. Please indicate your opinion of following public services in the Town of Brothertown:

Opinions of public services, by percentage	Excellent	Good	Neither Good nor Poor	Poor	Very Poor
a. Police Protection	14%	61%	22%	2%	1%
b. Fire and Rescue	25%	57%	16%	2%	0%
c. Cellular Telephone Service	6%	34%	29%	18%	13%
d. Internet Access	8%	33%	34%	14%	11%
e. Solid Waste and Recycling	17%	64%	13%	4%	2%
f. Snow Removal from Roads	28%	57%	10%	2%	2%
g. General Road Maintenance	23%	66%	7%	3%	1%
h. Schools	24%	58%	17%	1%	0%
i. Natural Gas	17%	47%	28%	4%	3%
j. Emergency Crisis Management	7%	38%	53%	2%	0%

6. Since you became a resident in the Town of Brothertown, do you feel that the quality of life in the Town has:
- 26% Improved
  - 8% Worsened
  - 49% Remained the same
  - 9% I am not a resident of the Town
  - 8% I am a resident of the Town but have no opinion

7. From the list below, please rank the top four qualities that you most value about the Town of Brothertown. List 1 for 1<sup>st</sup> choice, 2 for 2<sup>nd</sup> choice, 3 for 3<sup>rd</sup> choice, and 4 for 4<sup>th</sup> choice.

Results listed in combined order of preference for all 10 qualities

- |  |  |
|--|--|
| <u>4<sup>th</sup></u> People                 | <u>6<sup>th</sup></u> Safety/feeling of security |
| <u>2<sup>nd</sup></u> Location               | <u>8<sup>th</sup></u> Quality of Services        |
| <u>3<sup>rd</sup></u> Quietness              | <u>1<sup>st</sup></u> Rural/Country atmosphere   |
| <u>10<sup>th</sup></u> Quality of Government | <u>9<sup>th</sup></u> Quality of homes           |
| <u>5<sup>th</sup></u> Small town atmosphere  | <u>7<sup>th</sup></u> Recreational opportunities |

8. The Town of Brothertown Comprehensive Plan is required by the state and will be used to help shape the future of the community. For each item listed below, please indicate your opinion of whether the item should be considered when developing the Town of Brothertown Comprehensive Plan.

Percentage agreement, items to consider in Comprehensive Plan	Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
a. Develop new businesses and local employment opportunities.	18%	35%	28%	13%	6%
b. Insure equitable property taxes for all landowners	45%	46%	8%	2%	0%
c. Preserve former dairy farmsteads and barns.	31%	32%	29%	6%	2%
d. Preserve open spaces and undeveloped land.	41%	33%	19%	5%	2%
e. Preserve the town's best farmland.	41%	35%	20%	3%	2%
f. Promote orderly growth and development in the town.	29%	45%	17%	7%	2%
g. Protect groundwater/drinking water quality.	71%	26%	3%	0%	0%
h. Protect scenic views of the Ledge/Niagara Escarpment.	50%	32%	17%	1%	1%
i. Protect surface water quality.	60%	36%	4%	0%	0%
j. Protect the existing rights of individual landowners.	63%	31%	5%	0%	0%
k. Maintain the rural character of the Town.	49%	42%	7%	2%	0%
l. Maintain the agricultural character of the Town.	41%	39%	16%	3%	1%
m. Protect undeveloped stretches of Winnebago lakeshore.	47%	25%	18%	7%	2%
n. Protect wetlands (i.e. the South Branch of the Manitowoc River).	44%	34%	18%	4%	1%
o. Protect existing woodlands.	47%	33%	15%	3%	2%
p. Set aside areas for mobile home parks	7%	11%	23%	21%	39%

9. Between 1990 and 2000 the population in the Town of Brothertown has remained steady at about 1400 people. What rate of growth would you like to see within the next 10 years?
- 39% No growth (population remains at around 1400 people)
  - 58% Modest growth (population growth of 10-100 people per year)
  - 3% Rapid growth (population growth of more than 100 people per year)

10. The Town of Brothertown is currently both a rural and an agricultural community. How would you like to see the Town of Brothertown in the year 2020? (check all that apply):
- 65% Rural community (scenic, natural)
  - 52% Agricultural community (farming crops and livestock)
  - 8% Residential community (single family homes, subdivisions, apartments, etc.)
  - 12% Recreational/Tourist community
  - 3% Commercial community (mills, factories, warehouses, office buildings, light industrial)
  - 47% Scattered Residential community (Mixed agricultural and single family homes)
  - 3% No opinion/don't know

11. In your opinion, should the Town of Brothertown encourage commercial and/or industrial development in the Town?

- 32% Yes (if "yes", continue to question 11a)
- 54% No (if "no", skip to question 12)
- 13% No opinion/don't know (skip to question 12)

- 11a. If you feel that the Town should encourage commercial and/or industrial development, what types of commercial development would you support in the Town of Brothertown (check all that apply)?

- 82% Professional and Light Industrial type businesses (insurance, banking, light manufacturing, etc.)
- 54% Retail stores (Antique and specialty shops, clothing stores, etc.)
- 77% Gas station/convenience store
- 59% Restaurants
- 21% Industrial Manufacturing (mills, factories, warehouses, etc.)
- 16% Mining (Limestone quarries)

12. In your opinion, should the Town of Brothertown encourage new housing development?

- 39% Yes (if "yes", answer questions 12a – 12c below)
- 51% No (if "no" skip to question 13 below)
- 10% No opinion (skip to question 13 below)

- 12a. If you feel that the Town should encourage new housing development, what types of new housing development should the Town encourage? (check all that apply)?

- 96% Single family homes
- 16% Mobile home parks
- 37% Condominiums
- 5% Individual mobile homes
- 12% Apartments (1, 2, or 3 bedroom)
- 33% Senior citizen housing (assisted living)
- 13% Senior citizen housing (nursing homes)
- 15% Duplexes
- 41% Hobby farms
- 46% Second homes/seasonal homes
- 6% Multiple family developments

- 12b. In your opinion, where do you feel that future housing development should take place in the Town?

- 28% Only in areas with existing sewer services
- 1% Only in areas without existing sewer services
- 54% In areas that may or may not have existing sewer services
- 18% No opinion

**12c.** In your opinion, residential lot development in areas with NO existing sewer services should be required to have a minimum of:

- 6% Less than 1 acre
- 36% 1 acre
- 19% 2 acres
- 11% 5 acres
- 4% 10 acres
- 2% 35 acres
- 11% No acreage requirement
- 10% No opinion

**13.** When a farmer sells a farm in the Town, which one of the following best describes how you believe that the land should be used after the sale? (check only one)

- 24% The land should be allowed to be used for residential development purposes
- 2% The land should be allowed to be used for commercial development purposes
- 75% The land should be kept for an agricultural-related land use

**14.** In the future, what recreational facilities would you like to see developed in the Town of Brothertown? (check all that apply)

- 10% Ball diamond(s)
- 37% Multi-use park
- 19% Additional boat launches
- 10% Additional marinas
- 19% Expansion of the snowmobile trail system
- 23% Recreation trail system for ATVs only
- 39% Recreation trails for biking, hiking, and horses only
- 33% Public natural areas (non-hunting)
- 19% Public hunting land
- 22% More public access to lakefront

<b>15. Percentage agreement with statements about Lake Winnebago water quality management</b>	<b>Strongly Agree</b>	<b>Agree</b>	<b>Neither Agree nor Disagree</b>	<b>Disagree</b>	<b>Strongly Disagree</b>
a. Create vegetation buffers along streams	30%	44%	24%	2%	0%
b. Reduce erosion at construction sites	34%	46%	17%	3%	0%
c. Install rip-rap along the shoreline to prevent erosion	28%	42%	24%	5%	1%
d. Farm based upon the best scientific knowledge ("Best Agricultural Practices")	29%	50%	18%	2%	1%
e. Upgrade failing septic systems along the lakeshore	48%	37%	14%	1%	1%
f. Reduce run-off from lawns, rooftops, and other developments along the lakeshore	29%	39%	25%	5%	2%
g. Build storm water retention ponds	18%	30%	42%	8%	2%
h. Create a public sanitary district/sewer system along the lakeshore	28%	30%	27%	10%	6%



<b>Percentage agreement with statements about growth and development issues</b>	<b>Strongly Agree</b>	<b>Agree</b>	<b>Neither Agree nor Disagree</b>	<b>Disagree</b>	<b>Strongly Disagree</b>
16. Good value is received for taxes paid to the Town of Brothertown.	11%	49%	30%	8%	3%
17. Landowners should always have the right to sell their land for development.	15%	32%	26%	21%	7%
18. The Town of Brothertown should encourage future development around population centers, such as Jericho, Brothertown, and Charlesburg, to manage future growth.	14%	39%	28%	13%	6%
19. Future growth plans for the Town should provide for rural residential subdivisions.	6%	27%	28%	28%	12%
20. The Town should develop guidelines to review and regulate the location of telecommunication towers within the Town.	21%	50%	20%	6%	3%
21. The Town should develop guidelines to review and regulate the location of wind towers within the Town.	22%	43%	23%	9%	3%
22. The Town of Brothertown should pursue the development of a business/industrial park in the town.	6%	19%	28%	29%	17%
23. The Town of Brothertown should regulate mining and rock quarry operations in the Town.	27%	40%	23%	8%	3%
24. The Town of Brothertown should promote tourism.	16%	30%	34%	14%	6%
25. There should be a casino operating in the Town of Brothertown	6%	8%	18%	21%	48%
26. The preservation of the Winnebago lakeshore is important to me.	44%	39%	13%	2%	2%
27. The preservation of the Niagara Escarpment is important to me.	35%	35%	27%	3%	2%
28. The Town of Brothertown should regulate unattractive properties, such as junkyards.	49%	36%	9%	4%	2%
29. The Town of Brothertown should regulate the size and location of mobile homes.	42%	35%	17%	4%	2%
30. The Town should seek grants to help eligible residents maintain, rehabilitate, and improve older homes.	30%	43%	21%	4%	3%
31. The Town of Brothertown has a range of available housing choices that meet the needs of persons from all income levels.	9%	45%	35%	8%	2%
32. The Town should require owners of buildings that are in disrepair to either remove or repair the buildings.	28%	38%	20%	10%	4%
33. The town should pursue creation of a sanitary district to provide public sewer service.	17%	23%	29%	21%	10%
34. A farmer's right to farm is important to me even if I am sometimes bothered by noise, dust, odors, etc. from farming operations.	45%	41%	7%	3%	3%
35. Every landowner should be able to use their land as they choose is important to me even if it is sometimes disruptive to me.	22%	40%	16%	16%	6%
36. A policy should be developed that requires people who build new homes in the Town near farms to sign a written contract that protects a farmer's right to farm.	30%	39%	18%	8%	5%
37. Development should be guided so that it occurs in only certain areas to prevent conflicts between farming and residential development.	22%	47%	21%	7%	3%
38. The Town should pursue development and ownership of parks and recreational facilities.	11%	32%	37%	14%	6%

Percentage agreement with statements about growth and development issues	Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
39. Flooding and storm water runoff in the Town are problems at this time or may be in the near future.	13%	32%	41%	13%	1%
40. The number of family farms in the Town of Brothertown is declining. The continued existence of the remaining family farms is important to the Town's future.	30%	41%	19%	8%	2%
41. The Town of Brothertown should review and regulate the location of large livestock farming operations within the Town.	37%	35%	17%	8%	2%
42. The Town of Brothertown should encourage the development of renewable energy sources within the community such as solar panels, wind farms, etc.	26%	38%	23%	9%	4%

The Conservation Reserve Program (CRP) provides assistance to farmers and ranchers to address soil, water, and related natural resource concerns on their lands. The program provides assistance in complying with Federal, State, and tribal environmental laws. The stated intention of the Conservation Reserve Program is to reduce soil erosion, protect the Nation's ability to produce food and fiber, reduce sedimentation in streams and lakes, improve water quality, establish wildlife habitat, and enhance forest and wetland resources. It encourages farmers to convert highly erodible cropland or other environmentally sensitive acreage to vegetative cover, such as tame or native grasses, wildlife plantings, trees, filterstrips, or riparian (rip-rap) buffers. Farmers receive an annual rental payment for participating in the program.

	Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
44. Thinking of the above, landowners should be encouraged to participate in the Conservation Reserve Program.	35%	43%	18%	4%	1%

In a "Purchase of Development Rights" (PDR) program, a private landowner voluntarily sells to the Town the rights to develop a specific land parcel that is owned by the landowner. The Town then retires the development rights so the land remains undeveloped forever. Current and future landowners of that land parcel still retain all other private rights to the parcel of land such as hunting, farming, and recreation. PDR programs can be funded through local, state, federal, and non-profit assistance.

	Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
45. Thinking of the above statement, the Town of Brothertown should consider developing a PDR program.	15%	24%	36%	17%	8%
46. Thinking of the statement above, how much would you, as an individual taxpayer, be willing to pay per year to fund a purchase of development rights (PDR) program? (check one) <u>59%</u> \$0 <u>13%</u> \$10 <u>16%</u> \$25 <u>9%</u> \$100 <u>1%</u> \$200 <u>1%</u> more than \$200					

43. Conservation Development is a tool that is used by some rural communities to manage residential growth. It involves clustering homes together on a portion of a larger parcel, while the remainder of the parcel is left undeveloped. To better understand conservation development, consider the following two examples of a 50-acre residential development:

Example 1: (Without Conservation Development): On a 50-acre parcel, 10 homes are built and each home has a 5-acre lot.

Example 2: (With Conservation Development): 10 acres of a 50-acre parcel are used for development, and each of the 10 homes in the development has a 1-acre lot. The remaining 40 acres are left basically undeveloped to be used by the subdivision residents for recreational and communal purposes.

	Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
47. Thinking of the statement above, the Town of Brothertown should require the use of Conservation Development in selected areas of the Town.	17%	30%	30%	17%	6%



June 1, 2009

Representative James Soletski  
P.O. Box 8953  
Madison, WI 53708

Dear Chairman Soletski:

I am writing on behalf of the Wisconsin State Council of Carpenters to support the inclusion of solar light pipe technology and other direct solar renewable energy applications in legislation that would make them part of Wisconsin's Renewable Portfolio Standard (RPS).

**Wisconsin State Council  
of Carpenters**

United Brotherhood  
of Carpenters  
and Joiners of America



115 West Main Street  
Madison, Wisconsin 53703  
voice 608.256.1206  
fax 608.256.2978

Direct solar renewable energy technologies represent a relatively new and effective way to provide free, renewable and carbon-free energy. The light pipe in particular uses direct solar energy to illuminate the inside of buildings, eliminating the need for electrical light fixtures during many of the daylight hours, thereby maximizing available energy savings, significantly reducing carbon emissions and saving U.S. companies millions of dollars every year. These dollars can then be reinvested in employees or other facility infrastructure needs, thus magnifying the effect of the American Recovery and Reinvestment Act (ARRA).

Equally important is the fact that installation of solar light pipe technology would support thousands of jobs. By including solar light pipe technology and other direct solar renewable energy applications in the Renewable Portfolio Standard, countless companies would install this technology and the Legislature would effectively put hundreds of our members to work immediately across the state of Wisconsin.

The potential for solar light pipe technology and other direct solar renewable energy applications is incredible. I hope you can support the inclusion of direct solar renewable energy technologies in legislation that would make them part of Wisconsin's Renewable Energy Portfolio Standard.

Sincerely,

A handwritten signature in black ink that reads "Mark S. Reihl". The signature is written in a cursive, flowing style.

Mark S. Reihl  
Executive Director

Cc: Members of the Assembly Committee on Energy and Utilities



**DRAFT**

**TO:** Mark Kunkel  
David Lovell

**FROM:** Rep. Jim Soletski

**RE:** Amendment drafting requests to  
AB 256 and SB 185

**DATE:** June 12, 2009

Please draft the following amendments to our legislation:

**A. Smart Growth amendment:**

A local unit of government may deny approval of an application that proposes to site a large wind energy system in an area primarily designated for future residential or commercial development in a map adopted under s. 66.1001(2)(b) on or before June 1, 2009, and any updates to the map as required under s. 66.1001(2)(i) after December 31, 2015. An applicant may appeal from such a denial to the PSC. The PSC shall determine whether to grant the appeal notwithstanding inconsistency of the application with planned residential or commercial development as shown on the map if granting such appeal is consistent with the public interest.

0532/2

*Intent: This creates a limited exception to Numrich in that it would permit a local unit of government to take into account its land use regulatory/planning authority when acting on wind energy application. The exception should be interpreted narrowly. In the bill, the PSC is obliged to consider, but not follow, the uniform siting standards in its own CPCN decisions. Our intent is that this section would not apply to CPCN decisions in that PSC already considers land use under s. 196.491(3)(d)6.*

**B. "Wildlife amendment":**

\_\_\_ Section \_\_\_ is created to read:

0526/1

The Department of Natural Resources shall designate areas of concern in this state where the placement of wind turbines may have a significant, adverse impact on bat and migratory bird populations. The Department shall show such designations on maps available on the Department's website.

The Department of Natural Resources shall study its existing statutory authority with respect to the regulation of wind energy systems and make recommendations to the legislature one year after the effective date of this act.

The entire Authority

1998

**DRAFT**

*Our intent that is the DNR's designation of areas of concern is strictly advisory and may not be the basis of a prohibition of any other permit the DNR is required to issue for a wind energy project.*

**C. Hearing requirement:**

Require the PSC to hold two hearings outside of Dane County in areas where wind developers have proposed projects.

**D. Miscellaneous clean-up:**

\*On page 5, lines 9 to 12, make the following change:

4. ~~If an applicant's application is approved or considered to be approved under subd. 1, or if the application is not subject to regulation because the political subdivision does not enact an ordinance under par. (g) within the time specified in subd. 2, a~~ A political subdivision may not consider an applicant's minor modification to constitute a new application for the purposes of this subsection.

\*Delete the material on page 5, lines 15 to 18.

\*On page 8, lines 14-16, make the following change:

(e) In conducting a review under par. (d), the commission may treat a political subdivision's determination that an application under sub. (4)(a)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 incomplete.

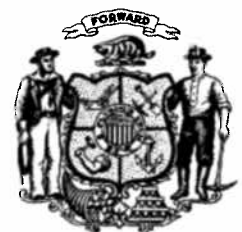
\*196.491 (3) (dg) In making a determination under par. (d) that applies to a large electric generating facility, if the large electric generating facility is a wind energy system, as defined in s. 66.0403(1) (m), the commission shall consider whether installation or use of the facility is consistent with the ~~restrictions~~ standards specified in the rules promulgated by the commission under s. 196.378 (4g) (b).

**E. Advisory Committee:**

On page 11, line 7, after "political subdivisions", insert "a member of the University of Wisconsin faculty who offers expertise in the issues to be addressed by the commission in the uniform siting rules".



# WISCONSIN STATE LEGISLATURE





**Peters, Steven**

---

**From:** Peters, Steven  
**Sent:** Monday, June 15, 2009 1:41 PM  
**To:** Kunkel, Mark; Lovell, David; Stolzenberg, John  
**Subject:** one more amendment for drafting for AB 256

Requiring that a notice be issued by the local unit of government that a wind energy application had been filed for approval.

Thanks

**Steven Peters**  
**Office of Rep. Jim Soletski**  
307 West, State Capitol  
(608) 266-0485  
[steven.peters@legis.wi.gov](mailto:steven.peters@legis.wi.gov)

DS34/1



June 15, 2009

**Representative James Soletski**  
Chairman Committee on Energy and Utilities  
Room 307 North  
State Capitol  
P.O. Box 8953  
Madison, WI 53708-8953

Dear Representative Soletski,

I am writing today to ask you once again not to support AB 256.

A one size fits all rule developed by the PSC will **not** adequately protect the health, safety, welfare, property values, property rights, and agricultural activities of Wisconsin Towns and residents. Only local control of industrial wind turbines can protect the diverse land use in Wisconsin.

A white paper published by the Minnesota Department of Health on May 22, 2009, titled Public Health Impacts of Wind Turbines indicates there is more research to be done here in Wisconsin before the PSC is given any more control of siting turbines.

All the possible negative impacts to Wisconsin's agricultural industry must be identified and regulated before any siting legislation is passed.

Thank you for your time, consideration, and service to Wisconsin.

Sincerely,



Jim Bembinster  
18002 W CR C  
Evansville, WI 53536  
608-882-4592

The Public Service Commission has been following the talking points of the wind industry as the guidelines for permitting industrial wind turbines. By doing so they have failed to protect the health, safety, and welfare of Wisconsin citizens.

**DO NOT SUPPORT AB 256 SB 183**

Wisconsin may be getting *too green* as a result of the poor siting standards allowed by the PSC. The unprecedented growth in 2008 has uncovered some serious problems. All the negative impacts of wind turbines must be identified and regulated before we continue.



### CONSIDER THIS BEFORE YOU SUPPORT SITING REFORM

- Flight for life service will not be available to residents the live inside the boundaries of a wind facility.
- Wind turbines and tornados look the same on weather radar.
- Television, radio, and cell phone reception will be disrupted by the electromagnetic field generated by the turbines.
- The process vegetable business in Wisconsin is a \$750 million industry that employs thousands. This industry will be put in serious jeopardy if growers are unable to apply pesticides in a timely manner with aerial application.
- Grain crop yields can be increased by 30% with aerial application of crop enhancing chemicals.
- The Wisconsin Aerial Applicators Association has stated that no pilot will fly inside or 1/2 mile down wind of a wind turbine facility.
- Homes are being abandoned in Wisconsin because families can no longer live with the noise from the turbines at night.
- Property values for homes located near wind turbines have dropped. Homes are unable to be sold.



Please **DO NOT** Support the Siting Reform bill that will give the PCS the power to eradicate local control of siting decisions. Only local control can protect the health and safety, agricultural activities, property rights, and property values of Wisconsin citizens. A one size fits all rule developed by the PSC will not work.





---

---

## WISCONSIN LEGISLATIVE COUNCIL

---

---

*Terry C. Anderson, Director  
Laura D. Rose, Deputy Director*

TO: REPRESENTATIVE JAMES SOLETSKI

FROM: John Stolzenberg, Chief of Research Services

RE: Assembly Substitute Amendment \_ (LRBs0077/1) to 2009 Assembly Bill 256, Relating to Regulation of Wind Energy Systems

DATE: June 17, 2009

This memorandum, prepared at your request, summarizes the provisions of 2009 Assembly Bill 256, relating to the regulation of wind energy systems, and the differences between that bill and Assembly Substitute Amendment \_ (LRBs0077/1) to 2009 Assembly Bill 256.

### **CURRENT LAW**

#### **Municipal Regulation**

Current law limits the authority of a political subdivision (county, city, town, or village) to regulate the placement of solar and wind energy systems. Specifically, a municipality is prohibited from placing any restriction, either directly or in effect, on the installation of such a system, unless the restriction satisfies one of the following conditions:

- The restriction serves to preserve or protect the public health or safety.
- The restriction does not significantly increase the cost of the system or significantly decrease its efficiency.
- The restriction allows for an alternative system of comparable cost and efficiency.

In addition, current law authorizes a political subdivision to adopt an ordinance to require the trimming of vegetation that blocks sunlight or wind from reaching a solar or wind energy system.

As used in these provisions, a "wind energy system" is defined as equipment that converts and then stores or transfers energy from the wind into usable forms of energy.

### **Public Service Commission Regulation**

Current law requires, in general, that a public utility or other person must obtain a certificate of public convenience and necessity (CPCN) from the Public Service Commission (PSC) to construct any electric generating facility, including a wind energy system, with a capacity of at least 100 megawatts (MW). The CPCN statute lists a number of determinations that the PSC must make in order to grant a CPCN. If the installation or utilization of a facility for which a CPCN has been granted is precluded or inhibited by a local ordinance, the CPCN statute overrides the local ordinance and authorizes the installation and utilization of the facility to nevertheless proceed.

### **ASSEMBLY BILL 256**

#### **PSC Regulation**

##### ***Rules***

The bill directs the PSC to promulgate rules relating to both the standards a political subdivision may impose on wind energy systems and the procedures a political subdivision must follow in reviewing approval applications.

The PSC's rules must specify the restrictions a political subdivision may impose on the installation or use of a wind energy system. These restrictions must be consistent with the conditions in current municipal law, described above. The rules may address any of the following:

- Visual appearance and lighting.
- Electrical connections to the power grid.
- Setback distances.
- Maximum audible sound levels and proper means of measuring noise.
- Shadow flicker.
- Interference with radio, telephone, or television signals.
- Decommissioning.
- "Other matters."

The PSC's rules must also specify the following procedural matters relating to an application to a political subdivision for an approval to install a wind energy system and the enforcement of the approval by the political subdivision:

- The information and documentation that must be included in the application to demonstrate that the proposed wind energy system complies with the PSC's rules.

- The information and documentation that must be included in the political subdivision's record of decision regarding the application.
- The procedures the political subdivision must follow in reviewing an application.
- The requirements and procedures the political subdivision must use to enforce the restrictions authorized in the PSC's rules.

### ***Advisory Committee***

The bill directs the PSC to establish an advisory committee to advise the commission on the rules, described above. The advisory committee must be composed of representatives of the following: wind energy system developers; political subdivisions; energy groups; environmental groups; realtors; landowners who live adjacent to or in the vicinity of wind energy systems and who have not received compensation by or on behalf of owners, operators, or developers of wind energy systems; and the public.

### ***CPCN Application for a Wind Energy System***

The bill requires the PSC, in making a determination on a CPCN for a wind energy system (which is required only if the system has a capacity of at least 100 MW), to consider whether installation or use of the system is consistent with the restrictions specified in the PSC's rules, described above. This provision first applies to applications for CPCNs that the PSC receives after the effective date of its rules.

### **Municipal Regulation**

#### ***Authority to Regulate***

The bill states that a political subdivision may not regulate wind energy systems, or deny or impose a restriction on an approval to install a wind energy system unless it adopts an ordinance that is no more restrictive than the PSC's rules, described above.

The bill also states that a political subdivision may not place any restriction, either directly or in effect, on the installation or use of a wind energy system that is more restrictive than the PSC's rules described above, or that does not satisfy one of the conditions on such regulations in current law, described in the first section of this memorandum.

The bill specifies that a county ordinance to regulate wind energy systems applies only in the unincorporated parts of the county. If a town enacts an ordinance, either before or after the county enacts an ordinance, the more restrictive terms of the two ordinances will apply within that town.

#### ***Procedures and Time Limits***

The bill prescribes the following procedures and time limits for a political subdivision's review and public notice of an application for an approval to install a wind energy system:



- Within 45 days of receipt of an application, the political subdivision must determine whether the application is complete. If the political subdivision does not meet this deadline, the application is considered to be complete. If the political subdivision does not have an ordinance regulating wind energy systems, this 45-day review period does not begin until the first day of the fourth month beginning after the political subdivision receives the application.
- If the political subdivision determines that the application is incomplete, it must notify the applicant of the specific deficiencies in the application; and the applicant may supplement and resubmit the application.
- On the same day that an applicant submits an application to a political subdivision, the applicant must mail or deliver written notice of the application to the owners of land adjoining the site of the wind energy system.
- Within 90 days of determining that an application is complete, the political subdivision must approve or disapprove the application. If the political subdivision fails to meet this deadline, or an extended deadline summarized in the next bullet point, the application is considered to be approved.
- Within this 90-day review period, a political subdivision may extend the review period by up to an aggregate total of 90 days by any combination of the following:
  - An extension of up to 45 days if the political subdivision needs additional information.
  - An extension of up to 90 days if the applicant makes a material modification to the application.
  - An extension of up to 90 days for other good cause specified in writing by the political subdivision.
- If an application is approved, considered to be approved, or is not subject to regulation because the political subdivision did not enact an ordinance in a timely manner, a political subdivision may not consider an applicant's minor modification to the application to constitute a new application.
- If an application is considered to be approved or is not subject to regulation because the political subdivision did not enact an ordinance in a timely manner, a political subdivision may not regulate the wind energy system that is the subject of the application.

#### ***Approval; Record of Decision***

The bill requires that a political subdivision make a record of its decision-making in conformance with the PSC's rules, including all of the following:

- A recording of any public hearing.
- Copies of documents submitted at any public hearing.

- Copies of any other documents provided to the political subdivision in connection with the application.

The bill requires that the political subdivision base its decision to approve or disapprove an application on findings of fact that are supported by the record, in a procedure that conforms with the PSC's rules.

### *Review of Municipal Permit Decisions*

In general, any decision of a political subdivision may be reviewed by an appeal to circuit court. However, such an appeal usually is not allowed until the person making the appeal has exhausted all opportunities for review or appeal within the political subdivision. Under the bill, these standard appeals procedures apply to any decision relating to a wind energy system with a generation capacity of less than one MW.

The bill creates a separate and exclusive appeals procedure applicable to a political subdivision's decisions and enforcement actions relating to a "large wind energy system," defined as a system with a generation capacity of at least one MW, as follows:

- Any person aggrieved by the political subdivision's decision or enforcement action relating to a large wind energy system may seek review of the decision or action within the political subdivision. If the person is still aggrieved after the political subdivision's review is completed, the person may file an appeal with the PSC within 30 days of the completion of the political subdivision's review. If the political subdivision fails to complete its review within 90 days after the aggrieved person begins the review, the political subdivision is considered to have completed its review on the 90<sup>th</sup> day after the person began the review.
- Rather than beginning a review of a decision or enforcement action by the political subdivision within the political subdivision, the aggrieved person may file an appeal directly with the PSC, provided that this filing is made no later than 30 days after the decision or initiation of the enforcement action.
- Upon receiving an appeal under either of the procedures described above, the PSC must notify the political subdivision. Within 30 days of receiving the PSC's notification, the political subdivision must provide a certified copy of its record upon which it based its decision or enforcement action. The PSC may request other relevant governmental records, and, if requested, the political subdivision must provide the records within 30 days of receiving the request.
- The PSC may confine its review to the political subdivision's records or may expand the record if it determines that additional information would be relevant to its decision.
- The PSC must issue a decision on the appeal within 90 days of receipt of all records it requests from the political subdivision, except that it may extend this deadline for good cause. The bill does not limit the amount of time by which the PSC may extend its review period.

- If the PSC determines that the political subdivision's decision or enforcement action does not comply with its rules or is otherwise unreasonable, the PSC's decision supersedes the political subdivision's decision, and the PSC may order an appropriate remedy.
- In conducting a review, the PSC may treat a political subdivision's determination that an application is incomplete as a decision to disapprove the application.
- An aggrieved person may not seek judicial review of the PSC's decision until the PSC's review has been completed.
- A judicial review is of the PSC's decision, not of the political subdivision's decision or enforcement action.
- Injunctive relief is available only if certain conditions, which also apply to injunctive relief from the PSC's decisions in general, are met.

The PSC's review process first applies to the decision of a political subdivision that is made after the effective date of the PSC's rules.

#### ***Definition of "Wind Energy System"***

The bill modifies the definition of "wind energy system" to include not only equipment that converts and then stores or transfers energy from wind into usable forms of energy but also "associated facilities" that serve these purposes.

#### **Other Provisions**

##### ***Testing Activities***

The bill provides that a political subdivision may not prohibit or restrict any person from conducting tests to determine the suitability of a site for wind energy generation. Instead, it allows a political subdivision that objects to such testing to petition the PSC to impose reasonable restrictions on the testing.

##### ***Municipal Ordinances to Require Trimming of Vegetation***

The bill does not modify a political subdivision's authority to enact an ordinance to require the trimming of vegetation that blocks sunlight or wind from reaching a solar or wind energy system. However, it clarifies that a county ordinance for this purpose applies only in towns that have not enacted such an ordinance.

#### **ASSEMBLY SUBSTITUTE AMENDMENT -- (LRBs0077/1)**

##### **PSC Regulation**

The substitute amendment makes the following changes in the bill's provisions relating to PSC regulations:

- Directs the PSC to hold at least two public hearings prior to promulgating its rules on wind energy systems. At least one of the hearings must be held in Monroe County and at least one must be held in an area outside of Dane County and Monroe County in which developers have proposed wind energy systems.
- Adds to the required membership of the PSC advisory committee on its rules on wind energy systems a member of the University of Wisconsin faculty who offers expertise in the issues to be addressed by the committee.
- Clarifies in the provision on a CPCN application for a wind energy system that the PSC must consider whether installation or use of the system is consistent with the standards, rather than the restrictions, specified in the PSC's rules.

### **Municipal Regulation**

The substitute amendment makes the following changes in the bill's provisions relating to municipal regulations:

- Authorizes a political subdivision to deny an application for approval of a large wind energy system this item is not defined in the substitute amendment if the proposed site of the system is in an area primarily designated for future residential or commercial development, as shown in a map that is adopted as part of a comprehensive plan under the Smart Growth law before June 2, 2009, or as shown in such maps after December 31, 2015, as part of a comprehensive plan that is updated as required under the Smart Growth law.
  - An applicant whose application is denied under this provision may appeal the denial to the PSC.
  - The PSC may grant the appeal, notwithstanding the inconsistency of the application with the planned residential or commercial development, if the PSC determines that granting the appeal is consistent with the public interest.
- In the procedures and time limits for a political subdivision's review of an application for an approval to install a wind energy system:
  - Requires a political subdivision, as soon as possible after receiving an application for approval of a wind energy system, to publish a Class 1 notice stating that the application has been filed with the political subdivision.
  - Establishes that under any condition a political subdivision may not consider an applicant's minor modification to the application to constitute a new application for the purposes of these procedures.
  - Excludes the provision in the bill that, if an application is considered to be approved or is not subject to regulation because the political subdivision did not enact an ordinance in a timely manner, a political subdivision may not regulate the wind energy system that is the subject of the application.

- In the procedure for appealing a political subdivision's decision or enforcement action on a wind energy system to the PSC:
  - Applies the procedure to all sizes of wind energy systems subject to regulation by political subdivisions rather than only those with a capacity of at least one MW.
  - Qualifies the provision that authorizes the PSC to treat a political subdivision's determination that an application is incomplete as a decision to disapprove the application to apply only if the PSC determines that the political subdivision has unreasonably withheld its determination that an application is incomplete.

### Other Provisions

The substitute amendment creates the following provisions that are not contained in the bill:

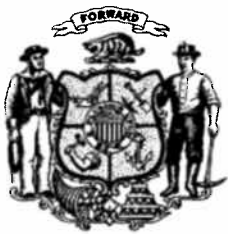
- Directs the Department of Natural Resources (DNR) to identify areas in the state where wind turbines, if placed in those areas, may have a significant adverse effect on bat and migratory bird populations. The DNR must maintain an Internet website that provides this information to the public and includes a map of the identified areas.
- Directs the DNR to study whether the department's statutory authority is sufficient to adequately protect wildlife and the environment from any adverse effect from the siting, construction, or operation of wind energy systems.
  - In conducting the study, the DNR must consider the authority of other state agencies and political subdivisions to regulate the environmental impact of wind energy systems.
  - The DNR must submit its report on the study to the Legislature within 13 months after the provision's effective date. If the study concludes that the DNR's authority is not sufficient, the report must include recommendations for a bill that provides DNR with such authority.

If you have any questions on Assembly Bill 256 or the substitute amendment, please feel free to contact me directly at the Legislative Council staff offices.

JES:ty



# WISCONSIN STATE LEGISLATURE





## MEMORANDUM

---

**DATE:** August 4, 2009  
**TO:** Senate Committee on Commerce, Utilities, Energy, and Rail  
**FROM:** John Sumi, Legislative Affairs Manager JS (ah)  
**SUBJECT:** SB 185 - Wind Project Siting Reform

Madison Gas and Electric Company (MGE) urges your support for Senate Bill 185, a proposal that will help revive the development of wind energy in Wisconsin.

MGE has been involved in the development of the proposal before you today through our participation in the Governor's Task Force on Global Warming which includes the proposal to reform wind-siting policy among its recommendations. We have also joined others supporting the bill as part of the Wind for Wisconsin coalition and as members of Clean, Responsible Energy for Wisconsin's Economy (CREWE).

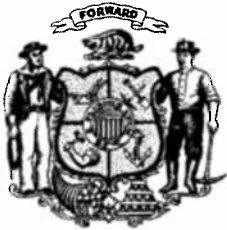
The bill before you today will set in motion a PSC rule-making process involving interested stakeholders in the development of uniform standards for wind turbines. Uniform standards are reasonable and greatly needed in order to enable Wisconsin utilities to develop renewable energy resources and reduce emissions of greenhouse gases. MGE supports SB 185 and believes the standards that come out of this effort will promote more consistent evaluation of wind projects in Wisconsin.

MGE generates and distributes electricity to 137,000 customers in Dane County, Wisconsin, and purchases and distributes natural gas to 141,000 customers in seven south-central and western Wisconsin counties. The Company's roots in the Madison area date back more than 150 years.

ah



# WISCONSIN STATE LEGISLATURE





Representative Jim Soletski 88th Assembly District Sept.1,2009  
Office Room 418 No.State Capitol PO Box8953,Madison 5308

Dear Rep.Soletski;

We request your support of a statewide wind siting bill this fall. We live in the township of Ridgeville, Monroe County, Norwalk, Wisconsin. We are anxiously awaiting for the good news of statewide wind siting standards by the PSC which would allow us to participate in the windfarm with INVENERGY LLC. We and forty plus landowners have easments signed since 2005. Our windfarm was halted and a very unrealistic ordinance imposed on us by our town chairman and his anti-wind group, taking away our property rights and our right to make a living from the land we have paid taxes on for many generations. We are ready to take legal action if necessary, but are hoping the state will pass the required bills to give us back our rights.

I am somewhat disturbed after receiving a letter from Senator Kathleen Vinehout, updating me on the state wind-siting and her many proposals on the issue. Many of her proposals and amendments as I see them, would make it impossible for the PSC to come to any agreements to allow windfarms here. For example: Sen. Vinehout wants a "diverse advisory" group, namely made up of a "like group" such as the ones that got us into this mess, halting our windfarm in this area, in the first place (back in 2006). Vinehout also states an amendment to create a Wind Siting Council to review every siting, allowing for changes, however they see fit, - so as to supercede the guidelines of the PSC and their siting rules.

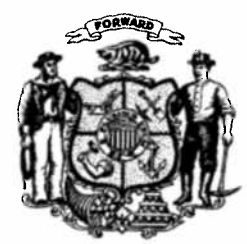
I have read her letter over many time, sharing it with my neighbors who also have easments signed. We all agree, the many proposals and amendments will make it impossible for the PSC to allow us to have a windfarm here. It is my belief the PSC should have universal rules, protecting health & welfare with setbacks allowing for turbines to be built as they have been in Wisconsin. Our neighboring states seem to be happy with the wind turbines bringing them needed jobs and revenue, why can't we have the same priveledges here? Our windfarm was to be built and running by 2007, so we have lost over two years of income. Our county needs jobs for people and money for a new jail. Presently many of the same people that halted the windfarm, are responsible for halting construction of a new jail in the county. This same group also halted construction of an ethanol plant in the county. So it does not make any difference - this group will stop any progress in our county. So we hope our legislators come through with a statewide wind siting bill to allow windfarms, like our neighboring states have. Thank You. Hope to hear good news SOON.

Sincerely,  
Fernnell Becher  
21166 Co.Hwy U  
Norwalk, Wi. 54648

Ph#(608)823-7583



# WISCONSIN STATE LEGISLATURE





44 East Mifflin Street • Suite 202 • Madison, Wisconsin 53703 • 608/257-3151

**To: Wisconsin Legislature**

**From: Bill Skewes, Executive Director  
Wisconsin Utilities Association**

**Re: Fuel Cost Streamlining**

**Date: September 10, 2009**

***Wisconsin utilities are seeking a legislative change to streamline the process for speeding refunds to customers or to recover the cost of fuel for power plants in rates during volatile fuel market conditions.***

- The Public Service Commission approved a rulemaking last year to address this issue but did not ultimately forward the rule to the Legislature, believing that a statutory change was needed to address concerns about retroactive ratemaking.
- Utilities should neither make money nor lose money on the cost of fuel – it should be a simple pass through. Yet current rules are outdated and did not contemplate the rapid price swings that now occur in an up-and-down economy, or natural supply disruptions such as Hurricane Katrina.
- After vetting a proposal with stakeholders and the PSC, an agreement was reached between utilities and customer groups on how to best achieve this streamlining and was included in the Assembly version of the recent budget, but did not make the final cut.
- Under this proposal, the PSC would continue to oversee the rate adjustments and allow for public input at a hearing and would promulgate rules. Rate adjustments could be granted through a “true-up” process for those occasions when the price of fuel traveled outside of a pre-determined range set by the PSC.

**Background:** Currently under PSC 116, commonly known as the “fuel rules”, utilities are required to file requests at the Public Service Commission to grant refunds to customers when they are *overcharged* for the cost of fuel due to rapid fuel price drops, or to recover costs in rates when fuel prices rise quickly and customers are *undercharged*. These cases can take months to resolve, involve several hearings and can even contradict each other due to the regulatory lag-time between when fuel costs are incurred and when rates are adjusted. One utility recently had both a customer refund request and rate recovery request – both up and down – before the PSCW on the same day. Customers’ confusion is apparent. Fuel costs are driven by open market conditions not in the direct control of utilities. Utilities must incur these costs to provide reliable electricity service, and do not profit from fuel purchases.

Please support this legislation to streamline the fuel rules process.