



State of Wisconsin
2011 – 2012 LEGISLATURE



LRBa1691/1
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**ASSEMBLY AMENDMENT 2,
TO 2011 ASSEMBLY BILL 253**

October 20, 2011 – Offered by Representatives BARCA, SEIDEL, SINICKI, PASCH, RICHARDS, POPE-ROBERTS, VRUWINK, HULSEY, HEBL, C. TAYLOR, BERNARD SCHABER, JORGENSEN, DOYLE, BEWLEY, KESSLER, CLARK, STEINBRINK, MASON, E. COGGS, ZAMARRIPA, ROYS and BERCEAU.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 3: after “highways” insert “and the regulation of wind energy
3 systems”.

4 **2.** Page 2, line 1: before that line insert:

5 “**SECTION 1b.** 66.0401 (1e) (a) of the statutes is amended to read:

6 66.0401 (1e) (a) “Application for approval” means an application for approval
7 of a wind energy system under the wind energy system rules promulgated by the
8 commission under s. 196.378 (4g) (c) 1.

9 **SECTION 1d.** 66.0401 (1e) (e) of the statutes is created to read:

10 66.0401 (1e) (e) “Wind energy system rules” has the meaning given in s.
11 196.378 (4g) (a) 5.

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

1 **66.0401 (1m)** AUTHORITY TO RESTRICT SYSTEMS LIMITED. (intro.) No political
2 subdivision may place any restriction, either directly or in effect, on the installation
3 or use of a wind energy system that is more restrictive than the wind energy system
4 rules ~~promulgated by the commission under s. 196.378 (4g) (b)~~. No political
5 subdivision may place any restriction, either directly or in effect, on the installation
6 or use of a solar energy system, as defined in s. 13.48 (2) (h) 1. g., or a wind energy
7 system, unless the restriction satisfies one of the following conditions:

8 **SECTION 1f.** 66.0401 (4) (b) of the statutes is amended to read:

9 **66.0401 (4) (b)** A political subdivision shall make a record of its decision making
10 on an application for approval, including a recording of any public hearing, copies of
11 documents submitted at any public hearing, and copies of any other documents
12 provided to the political subdivision in connection with the application for approval.
13 The political subdivision's record shall conform to the ~~commission's~~ wind energy
14 system rules ~~promulgated under s. 196.378 (4g) (c) 2~~.

15 **SECTION 1g.** 66.0401 (4) (c) of the statutes is amended to read:

16 **66.0401 (4) (c)** A political subdivision shall base its decision on an application
17 for approval on written findings of fact that are supported by the evidence in the
18 record under par. (b). A political subdivision's procedure for reviewing the
19 application for approval shall conform to the ~~commission's~~ wind energy system rules
20 ~~promulgated under s. 196.378 (4g) (c) 3~~.

21 **SECTION 1i.** 66.0401 (4) (f) 1. of the statutes is amended to read:

22 **66.0401 (4) (f) 1.** Except as provided in subd. 2., a political subdivision may not
23 deny or impose a restriction on an application for approval unless the political
24 subdivision enacts an ordinance that is no more restrictive than the wind energy
25 system rules ~~the commission promulgates under s. 196.378 (4g) (b)~~.

1 **SECTION 1j.** 66.0401 (4) (g) of the statutes is amended to read:

2 66.0401 **(4)** (g) A political subdivision that chooses to regulate wind energy
3 systems shall enact an ordinance, subject to sub. (6) (b), that is no more restrictive
4 than the applicable standards established by the commission in the wind energy
5 system rules ~~promulgated under s. 196.378 (4g)~~.

6 **SECTION 1L.** 66.0401 (5) (d) of the statutes is amended to read:

7 66.0401 **(5)** (d) The commission may confine its review to the records it receives
8 from the political subdivision or, if it finds that additional information would be
9 relevant to its decision, expand the records it reviews. The commission shall issue
10 a decision within 90 days after the date on which it receives all of the records it
11 requests under par. (c), unless for good cause the commission extends this time
12 period in writing. If the commission determines that the political subdivision's
13 decision or enforcement action does not comply with the wind energy system rules
14 ~~it promulgates under s. 196.378 (4g)~~ or is otherwise unreasonable, the political
15 subdivision's decision shall be superseded by the commission's decision and the
16 commission may order an appropriate remedy.

17 **SECTION 1n.** 66.0401 (6) (c) of the statutes is amended to read:

18 66.0401 **(6)** (c) If a political subdivision enacts an ordinance under sub. (4) (g)
19 after the ~~commission's rules promulgated under s. 196.378 (4g)~~ take effect effective
20 date of this paragraph ... [LRB inserts date], the political subdivision may not apply
21 that ordinance to, or require approvals under that ordinance for, a wind energy
22 system approved by the political subdivision under a previous ordinance or under a
23 development agreement.

24 **SECTION 1p.** 196.378 (4g) (a) 5. of the statutes is created to read:

1 196.378 (4g) (a) 5. “Wind energy system rules” means the final rules created
2 as ch. PSC 128, Wis. Adm. Code by order of the commission dated December 27, 2010.

3 **SECTION 1r.** 196.378 (4g) (b) of the statutes is amended to read:

4 196.378 (4g) (b) ~~The commission shall, with the advice of the wind siting~~
5 ~~council, promulgate rules that specify the restrictions a political subdivision may~~
6 ~~impose on the installation or use of a wind energy system consistent with the~~
7 ~~conditions specified in s. 66.0401 (1m) (a) to (c). The subject matter of these rules~~
8 ~~shall include setback requirements that provide reasonable protection from any~~
9 ~~health effects, including health effects from noise and shadow flicker, associated with~~
10 ~~wind energy systems. The subject matter of these rules shall also include~~
11 ~~decommissioning and may include visual appearance, lighting, electrical~~
12 ~~connections to the power grid, setback distances, maximum audible sound levels,~~
13 ~~shadow flicker, proper means of measuring noise, interference with radio, telephone,~~
14 ~~or television signals, or other matters. The commission shall administer and enforce~~
15 ~~the wind energy system rules.~~ A political subdivision may not place a restriction on
16 the installation or use of a wind energy system that is more restrictive than ~~these~~ the
17 wind energy system rules.

18 **SECTION 1t.** 196.378 (4g) (c) of the statutes is repealed.

19 **SECTION 1v.** 196.378 (4g) (d) of the statutes is repealed.

20 **SECTION 1x.** 196.491 (3) (dg) of the statutes is amended to read:

21 196.491 (3) (dg) In making a determination under par. (d) that applies to a large
22 electric generating facility, if the large electric generating facility is a wind energy
23 system, as defined in s. 66.0403 (1) (m), the commission shall consider whether
24 installation or use of the facility is consistent with the standards specified in the wind

1 energy system rules promulgated by the commission under, as defined in s. 196.378
2 (4g) ~~(b)~~ (a) 5.”.

3 **3.** Page 2, line 1: delete “1” and substitute “1z”.

4 **4.** Page 3, line 1: delete “This act first applies” and substitute “The repeal of
5 section 348.27 (5) (title) of the statutes and the renumbering and amendment of
6 section 348.27 (5) of the statutes first apply”.

7 (END)