

2011 DRAFTING REQUEST

Assembly Amendment (AA-AB253)

Received: 10/19/2011

Received By: **mkunkel**

Wanted: **As time permits**

Companion to LRB:

For: **Kelda Helen Roys (608) 266-5340**

By/Representing: **George Gillis**

May Contact:

Drafter: **mkunkel**

Subject: **Public Util. - energy**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Roys@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Wind energy system rules

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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FE Sent For:

<END>

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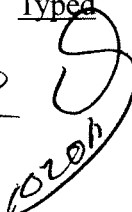
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1/?	mkunkel	(y's 10/20 11 10/20/11)		_____	_____		

FE Sent For:

<END>

Kunkel, Mark

From: Gary, Aaron
Sent: Wednesday, October 19, 2011 2:48 PM
To: Kunkel, Mark
Subject: FW: Amendment request

From: Gillis, George
Sent: Wednesday, October 19, 2011 2:43 PM
To: Gary, Aaron
Subject: Amendment request

Aaron,

To follow up on my message. We'd like to draft the Wind Citing rules CR 10-057 as an amendment to AB 253 and SB 189. I know that this would cause a large germaneness issue, however we're not really worried about that.

Thanks,

-George

George J. Gillis Jr.
Office of Rep. Roys

KELDA HELEN ROYS
STATE REPRESENTATIVE
ASSEMBLY DEMOCRATIC CAUCUS CHAIR
81st District * Wisconsin State Assembly
State Capitol * Room 113 North
P.O. Box 8953 * Madison, WI 53708
(608) 266-5340 * Fax (608) 282-3681
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BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Wind Siting Rules

1-AC-231

Clearinghouse Rule 10-057

ORDER ADOPTING MODIFIED FINAL RULES

The Wisconsin Public Service Commission proposes an order to create ch. PSC 128, relating to Wind Energy Systems.

The Commission issued an Order Adopting Final Rules on August 31, 2010. The rules, Commission docket 1-AC-231 and Clearinghouse Rule 10-057, were assigned to the Senate Committee on Commerce, Utilities, Energy and Rail and the Assembly Committee on Energy and Utilities for review. The Senate Committee held a hearing on October 13, 2010. The Committee referred the rules back to the Commission on October 29, 2010, requesting modifications. The Commission notified the Committee on November 1, 2010, that it would consider changes to the rule.

At its open meeting of December 9, 2010, the Commission adopted modifications to the rules and resubmitted the Modified Final Rules to the Legislature. The legislative review period has expired.

Docket 1-AC-231

The Commission promulgates the modified rules as Final Rules. The Final Rules are attached to this Order as Attachment A and incorporated by reference.

Dated at Madison, Wisconsin, December 27, 2010

By the Commission:

/s/ Sandra J. Paske

Sandra J. Paske
Secretary to the Commission

SJP:JL:g:\rules\active\1-AC-231\4-Final Adoption\Final\1-AC-231 Order Adopting Modified Final Rules.docx

Attachment

**Chapter PSC 128 Incorporating Rules Initially Adopted by the
Public Service Commission on August 31, 2010, and
Modifications Adopted on December 9, 2010**

TEXT OF THE RULES

SECTION 1. Item vm., Table 3. of chapter PSC 4 is created to read:

PSC 4 Item vm., Table 3. A docket opened to review a petition under s. PSC 128.41.

SECTION 2. Chapter PSC 128 is created to read:

CHAPTER PSC 128

WIND ENERGY SYSTEMS

Subchapter I – General

PSC 128.01	Definitions.
PSC 128.02	Applicability.
PSC 128.03	Political subdivision authority.
PSC 128.04	Enforcement.

Subchapter II – Owner Requirements

PSC 128.10	Incorporating owner requirements into local ordinances.
PSC 128.105	Development of a wind energy system; notice requirements.
PSC 128.11	Real property provisions.
PSC 128.12	Existing property uses.
PSC 128.13	Siting criteria.
PSC 128.14	Noise criteria.
PSC 128.15	Shadow flicker.
PSC 128.16	Signal interference.
PSC 128.17	Stray voltage.
PSC 128.18	Construction and operation.
PSC 128.19	Decommissioning.

*See text of rules on DOA or
PSC website*



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2701/1
ARG:wlj:ph

2011 ASSEMBLY BILL 253

September 15, 2011 - Introduced by Representatives PETROWSKI, RIPP, BROOKS, KOOYENGA, MURSAU and SPANBAUER, cosponsored by Senators LAZICH, GALLOWAY and LASEE. Referred to Committee on Transportation.

1 AN ACT *to repeal* 348.27 (5) (title); and *to renumber and amend* 348.27 (5) of
2 the statutes; **relating to:** the maximum permissible length of vehicles carrying
3 poles, pipe, girders, and similar materials on highways.

Analysis by the Legislative Reference Bureau

Under current law, no person may operate on a highway any single vehicle with an overall length in excess of 40 feet or any combination of two vehicles with an overall length in excess of 65 feet, unless an exception applies or the person has a permit to exceed these lengths. Subject to certain restrictions, the Department of Transportation (DOT) may issue an annual or consecutive month permit to pipeline companies or operators or public service corporations for transportation of poles, pipe, girders, and similar materials and to companies and individuals hauling peeled or unpeeled pole-length forest products used in its business (pole and pipe permit).

This bill eliminates the issuance by DOT of pole and pipe permits and authorizes the operation of certain overlength vehicles without a permit. The bill allows a person to operate, without a permit, a single vehicle with an overall length not exceeding 60 feet, and a two-vehicle combination with an overall length not exceeding 120 feet, if the vehicle or vehicle combination is used by a pipeline company or operator, public service corporation, municipal utility, or public utility cooperative (collectively a "utility"), or by a motor carrier operating under contract with a utility, for transportation of poles, pipe, girders, and similar materials.

ASSEMBLY BILL 253

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

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

1 **SECTION 1.** 348.27 (5) (title) of the statutes is repealed.

2 **SECTION 2.** 348.27 (5) of the statutes is renumbered 348.07 (2) (k) and amended
3 to read:

4 348.07 (2) (k) ~~Except as further provided in this subsection, the department~~
5 ~~may issue an annual or consecutive month permit to~~ Sixty feet for a single vehicle,
6 and 120 feet for a 2-vehicle combination, used by a pipeline companies or operators
7 ~~or company or operator, public service corporations corporation, municipal utility, or~~
8 public utility cooperative, or by a motor carrier operating under contract with a
9 pipeline company or operator, public service corporation, municipal utility, or public
10 utility cooperative, for transportation of poles, pipe, girders and similar materials
11 ~~and to companies and individuals hauling peeled or unpeeled pole-length forest~~
12 ~~products used in its business. Such permits issued to companies and individuals~~
13 ~~hauling peeled or unpeeled pole-length forest products shall limit the length of~~
14 ~~vehicle and load to a maximum of 10 feet in excess of the limitations in s. 348.07 (1)~~
15 ~~and shall be valid only on a class "A" highway as defined in s. 348.15 (1). Permits~~
16 ~~issued to companies or individuals hauling pole-length forest products may not~~
17 ~~exempt such companies or individuals from the maximum limitations on vehicle load~~
18 ~~imposed by this chapter.~~

19 **SECTION 3. Initial applicability.**



gjs

ASSEMBLY AMENDMENT,
TO 2011 ASSEMBLY BILL 253

Now

bill wish
8/27
x ved

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".

before that line insert

fix
component

4 **2.** Page 2, line 1: delete that line and substitute:

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) (e) 1.

History: 1981 c. 354; 1981 c. 391 s. 210; 1993 a. 414; 1999 a. 150 ss. 78, 79, 84; Stats. 1999 s. 66.0401; 2001 a. 30; 2009 a. 40.

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 subdivision enacts an ordinance that is no more restrictive than the wind energy
2 system rules ~~the commission promulgates under s. 196.378 (4g) (b).~~ ✓

History: 1981 c. 354; 1981 c. 391 s. 210; 1993 a. 414; 1999 a. 150 ss. 78, 79, 84; Stats. 1999 s. 66.0401; 2001 a. 30; 2009 a. 40.

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

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

History: 1981 c. 354; 1981 c. 391 s. 210; 1993 a. 414; 1999 a. 150 ss. 78, 79, 84; Stats. 1999 s. 66.0401; 2001 a. 30; 2009 a. 40.

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

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

History: 1981 c. 354; 1981 c. 391 s. 210; 1993 a. 414; 1999 a. 150 ss. 78, 79, 84; Stats. 1999 s. 66.0401; 2001 a. 30; 2009 a. 40.

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

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

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 **History:** 1981 c. 354; 1981 c. 391 s. 210; 1993 a. 414; 1999 a. 150 ss. 78, 79, 84; Stats. 1999 s. 66.0401; 2001 a. 30; 2009 a. 40.

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) (e) 2~~. ✓

15 **History:** 1981 c. 354; 1981 c. 391 s. 210; 1993 a. 414; 1999 a. 150 ss. 78, 79, 84; Stats. 1999 s. 66.0401; 2001 a. 30; 2009 a. 40.

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) (e) 3~~. ✓

21 **History:** 1981 c. 354; 1981 c. 391 s. 210; 1993 a. 414; 1999 a. 150 ss. 78, 79, 84; Stats. 1999 s. 66.0401; 2001 a. 30; 2009 a. 40.

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

1 system approved by the political subdivision under a previous ordinance or under a
2 development agreement. ✓

3 **History:** 1981 c. 354; 1981 c. 391 s. 210; 1993 a. 414; 1999 a. 150 s. 18, 79, 84; Stats. 1999 s. 66.0401; 2001 a. 30; 2009 a. 40.

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

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

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

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

21 **History:** 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40, 406; 2011 a. 34.

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

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

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

1 196.491 (3) (dg) In making a determination under par. (d) that applies to a large
 2 electric generating facility, if the large electric generating facility is a wind energy
 3 system, as defined in s. 66.0403 (1) (m), the commission shall consider whether
 4 installation or use of the facility is consistent with the standards specified in the wind
 5 energy system rules promulgated by the commission under, as defined in s. 196.378
 6 (4g) (b) (a) 5.” ✓

History: 1975 c. 68, 199; 1979 c. 221, 361; 1983 a. 53 s. 114; 1983 a. 192, 401; 1985 a. 182 s. 57; 1989 a. 31; 1993 a. 184; 1995 a. 27 ss. 9116 (5), 9126 (19); 1995 a. 227, 409; 1997 a. 27, 35, 204; 1999 a. 9; 1999 a. 150 s. 672; 2001 a. 16; 2003 a. 33, 89; 2005 a. 24, 29; 2007 a. 20 s. 9121 (6) (a); 2009 a. 40, 378, 379; 2011 a. 32.

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

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

11 (END)

