



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-4339/1
KP:cdc

2021 ASSEMBLY BILL 525

September 2, 2021 - Introduced by Representatives OLDENBURG, ARMSTRONG, SNODGRASS, ANDRACA, MURSAU and BALDEH, cosponsored by Senator COWLES. Referred to Committee on Energy and Utilities.

1 **AN ACT to renumber** 66.0401 (1m) (intro.), (a), (b) and (c); **to amend** 196.378 (4g)
2 (b); and **to create** 66.0401 (1m) (am), 196.38, 196.49 (5m) and 196.491 (3) (ds)
3 of the statutes; **relating to:** establishing solar field designations and granting
4 rule-making authority.

Analysis by the Legislative Reference Bureau

This bill creates voluntary “pollinator friendly” and “agriculture friendly” designations for ground-mounted photovoltaic solar energy systems (solar installations). Under the bill, the Public Service Commission must designate a solar installation as a pollinator friendly solar installation if various requirements are satisfied, including that the site of the installation is managed to benefit habitat for pollinator species and other wildlife. PSC must consult with the Department of Natural Resources in promulgating rules that establish requirements for being designated as a pollinator friendly solar installation. PSC must also design an official logotype for use by owners or operators of pollinator friendly solar installations, and the logotype may be used to represent that the installation is pollinator friendly.

The bill also requires PSC to designate a solar installation as an agriculture friendly solar installation if various requirements are satisfied, including that the site of the installation is managed to promote agricultural productivity. PSC must consult with the Department of Agriculture, Trade and Consumer Protection in promulgating rules that establish requirements for being designated as an agriculture friendly solar installation. PSC must also design an official logotype for

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use by owners or operators of agriculture friendly solar installations, and the logotype may be used to represent that the installation is agriculture friendly.

A solar installation that satisfies the pollinator friendly installation requirements and the agriculture friendly installation requirements may receive both designations. Also, under the bill, PSC and cities, villages, towns, and counties may not require as a condition of approving a solar installation that the installation be designated as either a pollinator friendly or agriculture friendly solar installation.

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.** 66.0401 (1m) (intro.), (a), (b) and (c) of the statutes are renumbered
2 66.0401 (1m) (a) (intro.), 1., 2. and 3.

3 **SECTION 2.** 66.0401 (1m) (am) of the statutes is created to read:

4 66.0401 (**1m**) (am) No political subdivision may require, as a condition of
5 approving an application relating to a solar installation, as defined in s. 196.38 (1),
6 that a solar installation be designated as a pollinator friendly solar installation
7 under s. 196.38 (2) or as an agriculture friendly solar installation under s. 196.38 (3).

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

9 196.378 (**4g**) (b) The commission shall, with the advice of the wind siting
10 council, promulgate rules that specify the restrictions a political subdivision may
11 impose on the installation or use of a wind energy system consistent with the
12 conditions specified in s. 66.0401 (1m) (a) ~~to (e)~~ 1. to 3. The subject matter of these
13 rules shall include setback requirements that provide reasonable protection from
14 any health effects, including health effects from noise and shadow flicker, associated
15 with wind energy systems. The subject matter of these rules shall also include
16 decommissioning and may include visual appearance, lighting, electrical
17 connections to the power grid, setback distances, maximum audible sound levels,

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1 shadow flicker, proper means of measuring noise, interference with radio, telephone,
2 or television signals, or other matters. A political subdivision may not place a
3 restriction on the installation or use of a wind energy system that is more restrictive
4 than these rules.

5 **SECTION 4.** 196.38 of the statutes is created to read:

6 **196.38 Solar field designations. (1) DEFINITION.** In this section, “solar
7 installation” means a ground-mounted photovoltaic solar energy system.

8 **(2) POLLINATOR FRIENDLY SOLAR INSTALLATION.** (a) The commission shall
9 designate a solar installation as a pollinator friendly solar installation if the
10 installation’s owner or operator applies to the commission and all of the following
11 apply:

- 12 1. Construction of the installation is complete.
- 13 2. The installation has an electric generating capacity of at least 40 kilowatts.
- 14 3. The application includes the information specified in rules promulgated
15 under sub. (4) (b) and any other information that the commission requests.
- 16 4. If the commission requests, a site management plan of the installation is
17 prepared.
- 18 5. The installation satisfies requirements established by rule under par. (b).

19 (b) 1. The commission shall promulgate rules establishing requirements for
20 designating a solar installation as a pollinator friendly solar installation under par.
21 (a). The rules promulgated under this paragraph may establish separate
22 requirements for installations with an electric generating capacity of 15 megawatts
23 or less and for installations with an electric generating capacity of more than 15
24 megawatts.

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1 2. The commission shall consult with the department of natural resources in
2 promulgating rules under this paragraph.

3 3. The rules promulgated under this paragraph shall require all of the following
4 for a solar installation to be designated as a pollinator friendly solar installation
5 under par. (a):

6 a. That the site of the installation is managed to benefit habitat for pollinator
7 species and other wildlife.

8 b. That the site of the installation includes vegetation that assists in controlling
9 runoff of water and soil erosion.

10 (c) 1. The commission shall design an official logotype appropriate for use by
11 owners or operators whose solar installation is designated as a pollinator friendly
12 solar installation under par. (a).

13 2. An owner or operator of a solar installation designated as a pollinator
14 friendly solar installation under par. (a) may use the logotype designed under this
15 paragraph and any other materials created by the commission to represent that a
16 solar installation is designated as pollinator friendly.

17 3. The commission shall prohibit the use of the logotype and materials
18 described in subd. 2. to represent that a solar installation is designated as a
19 pollinator friendly solar installation unless the solar installation is designated by the
20 commission under par. (a).

21 **(3) AGRICULTURE FRIENDLY SOLAR INSTALLATION.** (a) The commission shall
22 designate a solar installation as an agriculture friendly solar installation if the
23 installation's owner or operator applies to the commission and all of the following
24 apply:

25 1. Construction of the installation is complete.

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1 2. The installation has an electric generating capacity of at least 40 kilowatts.

2 3. The application includes the information specified in rules promulgated
3 under sub. (4) (b) and any other information that the commission requests.

4 4. If the commission requests, a site management plan of the installation is
5 prepared.

6 5. The installation satisfies requirements established by rule under par. (b).

7 (b) 1. The commission shall promulgate rules establishing requirements for
8 designating a solar installation as an agriculture friendly solar installation under
9 par. (a). The rules promulgated under this paragraph may establish separate
10 requirements for installations with an electric generating capacity of 15 megawatts
11 or less and for installations with an electric generating capacity of more than 15
12 megawatts.

13 2. The commission shall consult with the department of agriculture, trade and
14 consumer protection in promulgating rules under this paragraph.

15 3. The rules promulgated under this paragraph shall require all of the following
16 for a solar installation to be designated as an agriculture friendly solar installation
17 under par. (a):

18 a. The site of the installation is managed to promote agricultural productivity.

19 b. The site of the installation is managed to the extent feasible to minimize the
20 loss of productive agricultural land on and immediately surrounding the site, such
21 as by collocating the installation and agricultural production, incorporating land for
22 grazing, placing beehives, reducing runoff or controlling erosion on adjacent
23 agricultural land, incorporating setbacks for agricultural activities that are
24 necessary only for maintaining the installation and associated infrastructure, or

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1 providing revenues to agricultural producers who remain in active production after
2 the installation is established.

3 (c) 1. The commission shall design an official logotype appropriate for use by
4 owners or operators whose solar installation is designated as an agriculture friendly
5 solar installation under par. (a).

6 2. An owner or operator of a solar installation designated as an agriculture
7 friendly solar installation under par. (a) may use the logotype designed under this
8 paragraph and any other materials created by the commission to represent that a
9 solar installation is designated as agriculture friendly.

10 3. The commission shall prohibit the use of the logotype and materials
11 described in subd. 2. to represent that a solar installation is designated as an
12 agriculture friendly solar installation unless the solar installation is designated by
13 the commission under par. (a).

14 (4) ADMINISTRATION. (a) The commission may designate a solar installation as
15 both a pollinator friendly solar installation under sub. (2) and an agriculture friendly
16 solar installation under sub. (3) if the requirements under subs. (2) and (3) are
17 satisfied.

18 (b) The commission shall promulgate rules that do all of the following:

19 1. Establish a process for determining whether an application for a designation
20 under this section satisfies the requirements of this section.

21 2. Specify the information to be included in an application for a designation
22 under this section.

23 **SECTION 5.** 196.49 (5m) of the statutes is created to read:

24 196.49 (5m) The commission may not require as a condition of obtaining a
25 certification or approval under sub. (2) or (3) that a solar installation, as defined in

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1 s. 196.38 (1), be designated as a pollinator friendly solar installation under s. 196.38
2 (2) or as an agriculture friendly solar installation under s. 196.38 (3).

3 **SECTION 6.** 196.491 (3) (ds) of the statutes is created to read:

4 196.491 (3) (ds) The commission may not require as a condition of obtaining
5 a certificate under this subsection that a proposed facility that is a solar installation,
6 as defined in s. 196.38 (1), be designated as a pollinator friendly solar installation
7 under s. 196.38 (2) or as an agriculture friendly solar installation under s. 196.38 (3).

8 (END)