



State of Wisconsin  
2023 - 2024 LEGISLATURE

LRB-0095/1  
SWB&KP:cdc

## 2023 ASSEMBLY BILL 46

February 20, 2023 - Introduced by Representatives PLUMER, MURSAU, BEHNKE, BODDEN, MURPHY, O'CONNOR and SCHRAA, cosponsored by Senators BALLWEG, FELZKOWSKI and MARKLEIN. Referred to Committee on Energy and Utilities.

1     **AN ACT** *to create* 66.0401 (7), 196.378 (1) (e), 196.378 (4j), 196.491 (1) (h) and  
2           196.491 (3) (a) 4. of the statutes; **relating to:** requiring notice to political  
3           subdivisions and landowners regarding proposed large solar energy facilities,  
4           requirements for applying for certificates for large solar electric generating  
5           facilities, joint development agreements related to large solar electric  
6           generating facilities, and granting rule-making authority.

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### *Analysis by the Legislative Reference Bureau*

This bill requires a person, including a representative of a developer or other company, who seeks to purchase or lease land for the purpose of developing certain large solar electric generating facilities to provide notice to any political subdivision in which the land is located of the person's interest in purchasing or leasing land for this purpose at least 30 days before the person contacts the landowner about the purchase or lease. The bill defines a political subdivision as a city, village, town, or county. The person must also provide written notice to the landowner and any other landowners located within one mile of that land.

Under current law, a person seeking to construct a large electric generating facility, specifically a facility designed with an electric generating capacity of at least 100 megawatts, must obtain a certificate of public convenience and necessity (CPCN) from the Public Service Commission. The bill provides that at least 45 days before a person files a CPCN application with PSC for certain large solar electric generating

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facilities, the person must submit a written notice indicating the person's interest in entering into a joint development agreement (JDA) with each political subdivision in which the proposed facility would be located. In addition, during the 45 days immediately after providing that written notice the person must make a good faith effort to negotiate a joint development agreement with each political subdivision in which the proposed facility would be located.

Under the bill, each political subdivision considering a JDA must make a record of its decision-making process, including a record of any public hearing, copies of documents submitted at any public hearing, and copies of any other documents provided to the political subdivision in connection with the proposed JDA. The bill specifies that a political subdivision's authority to enter a JDA is subject to current law restrictions that prohibit a city, village, town, or county from placing any restriction, either directly or in effect, on the installation or use of a solar energy system unless the restriction: 1) serves to preserve or protect the public health or safety; 2) does not significantly increase the cost of the system or significantly decrease its efficiency; or 3) allows for an alternative system of comparable cost and efficiency. The bill requires that the parties to a JDA must ensure that the agreement is consistent with rules promulgated by PSC that establish subject matter that a JDA must address, and further requires that the political subdivision must base its decision regarding the provisions of a JDA on written findings of fact that are supported by the evidence in the record.

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

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

- 1           **SECTION 1.** 66.0401 (7) of the statutes is created to read:
- 2           66.0401 (7) LARGE SOLAR ELECTRIC GENERATING FACILITIES. (a) In this section:
- 3           1. "Large solar electric generating facility" has the meaning given in s. 196.491
- 4           (1) (h).
- 5           2. "Political subdivision" means a city, village, town, or county.
- 6           (b) At least 30 days before a person, including a representative of a developer
- 7           or other company, contacts a landowner for the purpose of purchasing or leasing land
- 8           to develop a large solar electric generating facility, the person shall provide written
- 9           notice of the person's interest in purchasing or leasing the land for the purposes of

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1 constructing a large solar electric generating facility. The person shall provide  
2 written notice to all of the following:

- 3 1. The landowner.
- 4 2. Each political subdivision in which the land is located.
- 5 3. Each landowner located within one mile of the land that the person is seeking  
6 to purchase or lease.

7 (c) A person providing notice to landowners under par. (b) shall include in the  
8 notice the name of the person seeking to purchase or lease land and specify that the  
9 person will be seeking to purchase or lease land within the area for the purposes of  
10 constructing a large solar electric generating facility.

11 (d) Before a person submits an application for a certificate of public convenience  
12 and necessity for a large solar electric generating facility as required under s.  
13 196.491 (3), the person shall submit a written notice indicating the person's interest  
14 in entering into a joint development agreement to each political subdivision in which  
15 the proposed facility would be located and shall make a good faith effort during the  
16 immediately following 45 days to negotiate a joint development agreement with each  
17 political subdivision.

18 (e) Each political subdivision considering a joint development agreement under  
19 this subsection must make a record of its decision-making process regarding the  
20 proposed joint development agreement, including a record of any public hearing,  
21 copies of documents submitted at any public hearing, and copies of any other  
22 documents provided to the political subdivision in connection with the proposed joint  
23 development agreement. A political subdivision's authority to enter a joint  
24 development agreement is subject to the restrictions under sub. (1m), and the parties  
25 to an agreement under this section shall ensure that the agreement is consistent

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1 with rules promulgated by the public service commission under s. 196.378 (4j). A  
2 political subdivision shall base its decision regarding the provisions of a joint  
3 development agreement on written findings of fact that are supported by the  
4 evidence in the record created under this section.

5 **SECTION 2.** 196.378 (1) (e) of the statutes is created to read:

6 196.378 (1) (e) “Large solar electric generating facility” has the meaning given  
7 in s. 196.491 (1) (h).

8 **SECTION 3.** 196.378 (4j) of the statutes is created to read:

9 196.378 (4j) JOINT DEVELOPMENT AGREEMENT REQUIREMENTS FOR LARGE SOLAR  
10 ELECTRIC GENERATING FACILITIES. The commission shall promulgate rules that specify  
11 the subject matter that a joint development agreement under s. 66.0401 (7) is  
12 required to address, including all of the following:

13 (a) Setback requirements.

14 (b) Proof of financial responsibility ensuring the availability of funds for  
15 decommissioning the large solar electric generating facility upon discontinuance of  
16 use of the large solar electric generating facility.

17 (c) Environmental impact studies.

18 (d) The type of land on which the large solar electric generating facility will be  
19 located.

20 **SECTION 4.** 196.491 (1) (h) of the statutes is created to read:

21 196.491 (1) (h) “Large solar electric generating facility” means a  
22 ground-mounted photovoltaic solar energy system that is a large electric generating  
23 facility.

24 **SECTION 5.** 196.491 (3) (a) 4. of the statutes is created to read:

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1           196.491 **(3)** (a) 4. At least 45 days before a person files an application under  
2           subd. 1., the person shall satisfy the requirement under s. 66.0401 (7) (d) if the  
3           facility is a large solar electric generating facility. This subdivision does not require  
4           a person to enter into a joint development agreement with a political subdivision  
5           under s. 66.0401 (7) to file an application under subd. 1.

6

**(END)**