



JOINT COMMITTEE FOR THE REVIEW OF ADMINISTRATIVE RULES

COMMITTEE CO-CHAIRS: SENATOR LEAH VUKMIR AND REPRESENTATIVE DANIEL LEMAHIEU

Section NR 1.483

2013 SB 115 (LRB-1741/1)

Report to the Legislature Administrative Code NR 1.483 The Joint Committee for Review of Administrative Rules

Produced pursuant to 227.26(2)(g), Stats.

Section NR 1.483 promulgated by the Department of Natural Resources (DNR), creates rules for the leasing of department tower sites for telecommunications systems.

Description of Problem

At the request of Representative Alvin Ott, the Joint Committee for Review of Administrative Rules (JCRAR) held a public hearing on s. NR 1.783 relating to DNR tower sites on February 26, 2013. Section NR 1.783 establishes rules for the DNR to be able to lease the department's radio or lookout towers to other state agencies or local governments for communication purposes. There are no charges for leases with other state agencies, and a \$25 per month charge for leases with local governments. The DNR is not allowed to lease these towers to private telecommunication businesses.

Communities in the far northern parts of Wisconsin have struggled to get reliable access to broadband service. This has limited economic expansion to that area of the state.

Arguments in Favor of Suspension

- *By allowing the DNR to lease these towers to telecommunication companies, we can expand broadband coverage to a part of the state in desperate need of high-speed internet service. This will allow for the economic expansion in an area that has been the hardest hit by the economic downturn.*
- *This will allow the DNR to bring in additional funds that could help offset the maintenance costs associated with these towers.*
- *This will create an opportunity for the state to help businesses create jobs. In the end, our administrative code should not stand in the way of job creation.*
- *The decision to lease these towers to private businesses remains with the DNR. If they believe their towers cannot withstand the increased equipment, they are not forced to lease that tower.*

Arguments Against Suspension

- *The state should not be leasing public property to a private industry. If there was a big enough need for broadband service, the telecommunication providers would have built their own towers.*

Action by Joint Committee for Review of Administrative Rules

On February 26, 2013, the Joint Committee for Review of Administrative Rules held an executive session on s. NR 1.483. The committee passed the following motion on a 10-0 vote (YES: Vukmir, LeMahieu, Leibham, Tiffany, Harris, Vinehout, August, Kaufert, Kahl and Hebl.):

“That the Joint Committee for Review of Administrative Rules suspend the following provisions included in s. NR 1.483, pursuant to s. 227.26 (2) (d), Stats., effective February 26, 2013, on the basis of testimony received at its February 26, 2013 meeting, and on the grounds that these provisions included in s. NR 1.483 impose an undue hardship on telecommunications users in northern Wisconsin, as stated in s. 227.19 (4) (d) 6.

NR 1.483 (3): The department will ~~only~~ consider a request to install a telecommunications system at a department tower site if it meets one of the criteria set forth in sub. (4). The department may reject a request to install a telecommunications system at a department tower site for any reason, including technical, legal or environmental problems associated with the request, or if granting the request could conflict with future department needs.

NR 1.483 (4) (intro.): The department will ~~only~~ consider a request to install a telecommunications system at a department tower site if the request is for a telecommunications system which is a:”

On March 27, 2013, the Joint Committee for Review of Administrative Rules voted XXX (YES: Vukmir, LeMahieu, Leibham, Tiffany, Harris, Vinehout, August, and Kaufert ABSENT: Hebl and Kahl) to introduce LRB 1741/1 and LRB 1922/1, which would state the DNR is allowed to enter into a lease of a DNR radio or lookout tower with a private person or governmental entity for the purpose of installing a commercial or noncommercial telecommunication system. The bill also includes the leasing fees spelled out in NR 1.783 for the lease of these towers to state or local governmental agencies. The bills were introduced as Senate Bill 115 and Assembly Bill 112.

Passage of one of the bills in support of the JCRAR suspension would allow the DNR to lease radio or lookout towers to private telecommunication companies.