



2013 SENATE BILL 167

April 30, 2013 – Introduced by Senator LASEE, cosponsored by Representatives THIESFELDT, JACQUE, BIES and SCHRAA. Referred to Committee on Judiciary and Labor.

1 **AN ACT** *to create* 895.095 of the statutes; **relating to:** actions for damages
2 caused by wind energy systems.

Analysis by the Legislative Reference Bureau

Under current law, a person may bring a civil action to be compensated for damages he or she suffers as a result of another's wrongful or negligent act. Parties to a civil action are generally responsible for paying their own attorney fees, but current law generally allows a prevailing plaintiff to recover up to \$500 for attorney fees under certain circumstances.

This bill states that, in an action for damages caused by a wind energy system, the prevailing plaintiff may recover damages for his or her physical and emotional harm, compensation for loss of property value and for expenses incurred by the injured person if he or she moves as a result of harms caused by a wind energy system, and other damages. The bill allows a prevailing plaintiff to recover reasonable attorney fees. Under the bill, if a wind energy system is located within one and a half miles from the plaintiff's residence, it is not a defense to the action to assert that the wind energy system was operating pursuant to an appropriate legal permit or local governmental approval.

For further information see the *state and local* 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:

SENATE BILL 167

1 SECTION 1. 895.095 of the statutes is created to read:

2 **895.095 Actions for damages caused by wind energy systems.** (1) In this
3 section, “wind energy system” has the meaning given in s. 66.0403 (1) (m).

4 (2) In an action for damages caused by a wind energy system, the court shall
5 grant a prevailing plaintiff all of the following:

6 (a) Actual damages for physical and emotional harm suffered by the plaintiff,
7 including for medical expenses, pain, and suffering.

8 (b) Compensation for loss of value to any property owned by the plaintiff that
9 was caused by the proximity of the property to the wind energy system.

10 (c) Compensation for expenses incurred by the plaintiff for moving to another
11 residence to escape the effects of the wind energy system.

12 (d) Any lost profits that are attributable to the proximity of the wind energy
13 system to the plaintiff’s residence and that were not taken into account in
14 determining the amount of actual damages under par. (a).

15 (e) Notwithstanding the limitations under s. 799.25 or 814.04, costs,
16 disbursements, and reasonable attorney fees.

17 (3) If a wind energy system is located within 1.5 miles of the residence of a
18 plaintiff in an action to recover damages caused by the wind energy system, it is not
19 a defense to claim that the public service commission granted a certificate of public
20 convenience and necessity for the wind energy system under s. 196.491 (3) or that
21 an application for the wind energy system was approved under s. 66.0401 (4).

22 (END)