August 26, 2021 - Introduced by Senator COWLES, cosponsored by Representatives OLDENBURG, ARMSTRONG, SNODGRASS, ANDRACA, MURSAU and BALDEH. Referred to Committee on Utilities, Technology and Telecommunications.

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

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**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...
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:

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

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

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

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

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

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

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

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

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

(b) 1. The commission shall promulgate rules establishing requirements for designating a solar installation as a pollinator friendly solar installation under par. (a). The rules promulgated under this paragraph may establish separate requirements for installations with an electric generating capacity of 15 megawatts or less and for installations with an electric generating capacity of more than 15 megawatts.
2. The commission shall consult with the department of natural resources in promulgating rules under this paragraph.

3. The rules promulgated under this paragraph shall require all of the following for a solar installation to be designated as a pollinator friendly solar installation under par. (a):
   a. That the site of the installation is managed to benefit habitat for pollinator species and other wildlife.
   b. That the site of the installation includes vegetation that assists in controlling runoff of water and soil erosion.

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

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

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

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

   1. Construction of the installation is complete.
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2. The installation has an electric generating capacity of at least 40 kilowatts.

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

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

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

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

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

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

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

   b. The site of the installation is managed to the extent feasible to minimize the loss of productive agricultural land on and immediately surrounding the site, such as by colocating the installation and agricultural production, incorporating land for grazing, placing beehives, reducing runoff or controlling erosion on adjacent agricultural land, incorporating setbacks for agricultural activities that are necessary only for maintaining the installation and associated infrastructure, or
providing revenues to agricultural producers who remain in active production after
the installation is established.

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

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

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

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

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

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

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

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

196.49 (5m) The commission may not require as a condition of obtaining a
certification or approval under sub. (2) or (3) that a solar installation, as defined in
S. 196.38 (1), be designated as a pollinator friendly solar installation under s. 196.38 (2) or as an agriculture friendly solar installation under s. 196.38 (3).

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

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