



## 2013 ASSEMBLY BILL 83

March 14, 2013 – Introduced by Representatives JACQUE, MURTHA, BERNIER, BIES, ENDSLEY, KESTELL, KLENKE, KNUDSON, LEMAHIEU, SPIROS and THIESFELDT, cosponsored by Senators LASEE, ELLIS, GROTHMAN, LEIBHAM and MOULTON. Referred to Committee on Energy and Utilities.

1     **AN ACT** *to repeal* 66.0401 (4) (f) 1.; *to renumber and amend* 66.0401 (4) (f) 2.;

2             *and to amend* 66.0401 (1m) (intro.), 66.0401 (4) (g), 66.0401 (5) (b) 3. and

3             196.378 (4g) (b) of the statutes; **relating to:** limiting the regulation of wind

4             energy systems by local governments.

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### *Analysis by the Legislative Reference Bureau*

Current law limits the authority of a city, village, town, or county (political subdivision) to regulate solar and wind energy systems. For both types of systems, current law prohibits a political subdivision from imposing a restriction on the installation or use of the system unless the restriction satisfies one of the following three conditions: 1) it serves to preserve or protect the public health or safety; 2) it does not significantly increase the cost of the system or significantly decrease the system's efficiency; or 3) it allows for an alternative system of comparable cost and efficiency. However, for wind energy systems, current law imposes an additional limitation on a political subdivision's authority by prohibiting a restriction that is more restrictive than rules promulgated by the Public Service Commission (PSC) under current law. This bill allows a political subdivision to impose a restriction on a wind energy system that is more restrictive than the PSC rules, but only if the restriction satisfies one of the foregoing three conditions. The bill does not affect a political subdivision's authority regarding solar energy systems.

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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 (1m) (intro.) of the statutes is amended to read:

2           66.0401 **(1m)** AUTHORITY TO RESTRICT SYSTEMS LIMITED. (intro.) No A political  
3 subdivision may place ~~any a~~ restriction, ~~either directly or in effect~~, on the installation  
4 or use of a wind energy system that is more restrictive than the rules promulgated  
5 by the commission under s. 196.378 (4g) (b). ~~No political subdivision may place any~~  
6 ~~restriction, either directly, or in effect,~~ a restriction on the installation or use of a  
7 solar energy system, as defined in s. 13.48 (2) (h) 1. g., ~~or a wind energy system, unless~~  
8 but only if the restriction satisfies one of the following conditions:

9           **SECTION 2.** 66.0401 (4) (f) 1. of the statutes is repealed.

10          **SECTION 3.** 66.0401 (4) (f) 2. of the statutes is renumbered 66.0401 (4) (f), and  
11 66.0401 (4) (f), as renumbered, is amended to read:

12          66.0401 **(4)** (f) A political subdivision may deny an application for approval if  
13 the proposed site of the wind energy system is in an area primarily designated for  
14 future residential or commercial development, as shown in a map that is adopted,  
15 as part of a comprehensive plan, under s. 66.1001 (2) (b) and (f), before June 2, 2009,  
16 or as shown in such maps after December 31, 2015, as part of a comprehensive plan  
17 that is updated as required under s. 66.1001 (2) (i). This subdivision paragraph  
18 applies to a wind energy system that has a nominal capacity of at least one megawatt.

19          **SECTION 4.** 66.0401 (4) (g) of the statutes is amended to read:

20          66.0401 **(4)** (g) A political subdivision that chooses to regulate wind energy  
21 systems shall enact an ordinance to do so, subject to sub. (6) (b), ~~that is no.~~ Subject

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1 to sub. (1m), the ordinance may be more restrictive than the applicable standards  
2 established by the commission in rules promulgated under s. 196.378 (4g).

3 **SECTION 5.** 66.0401 (5) (b) 3. of the statutes is amended to read:

4 66.0401 (5) (b) 3. An applicant whose application for approval is denied under  
5 sub. (4) (f) 2, may appeal the denial to the commission. The commission may grant  
6 the appeal notwithstanding the inconsistency of the application for approval with  
7 the political subdivision's planned residential or commercial development if the  
8 commission determines that granting the appeal is consistent with the public  
9 interest.

10 **SECTION 6.** 196.378 (4g) (b) of the statutes is amended to read:

11 196.378 (4g) (b) The commission shall, with the advice of the wind siting  
12 council, promulgate rules that specify the restrictions a political subdivision may  
13 impose on the installation or use of a wind energy system consistent with the  
14 conditions specified in s. 66.0401 (1m) (a) to (c). The subject matter of these rules  
15 shall include setback requirements that provide reasonable protection from any  
16 health effects, including health effects from noise and shadow flicker, associated with  
17 wind energy systems. The subject matter of these rules shall also include  
18 decommissioning and may include visual appearance, lighting, electrical  
19 connections to the power grid, setback distances, maximum audible sound levels,  
20 shadow flicker, proper means of measuring noise, interference with radio, telephone,  
21 or television signals, or other matters. ~~A~~ As provided in s. 66.0401 (1m), a political  
22 subdivision may not place a restriction on the installation or use of a wind energy  
23 system that is more restrictive than these rules.

24 **SECTION 7. Initial applicability.**

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**SECTION 7**

1 (1) The treatment of section 66.0401 (1m) (intro.) and (4) (g) of the statutes first  
2 applies to an ordinance that takes effect on the effective date of this subsection.

3 (END)