



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-2499/1
KP&EVM:amn

2023 ASSEMBLY BILL 258

May 8, 2023 - Introduced by Representatives KRUG, BROOKS, TUSLER, GUNDRUM, ROZAR, ALLEN, BINSFELD, BODDEN, MAXEY, PENTERMAN and SCHMIDT, cosponsored by Senators STROEBEL, CABRAL-GUEVARA and COWLES. Referred to Committee on Energy and Utilities.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to amend* 66.0401 (1m) (intro.) and 76.28 (1) (e) (intro.); and *to create*
2 66.0401 (1e) (bd), 66.0401 (1e) (bm), 66.0401 (1s), 196.01 (5) (b) 8. and 196.376
3 of the statutes; **relating to:** authorizing community solar programs and
4 granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill authorizes the establishment of community solar programs through which retail electric customers of an investor-owned electric utility may subscribe to a community solar facility and receive credits to their electric bills for electricity produced by the facility. Under the bill, entities called subscriber organizations may own or operate community solar facilities, which use solar energy to produce electricity. Retail electric customers may enter into a contract (subscription) with a subscriber organization through which the customers receive credits towards their electric bill based on their subscriptions. A subscriber and the community solar facility to which the subscriber subscribes must be located within the service territory of the same investor-owned electric utility. In addition, a subscriber may not receive an annual value of bill credits that exceeds the subscriber's average annual electric bill. Also, under the bill, subscribers may not receive any state subsidy for which generating electricity from a renewable energy resource is a criteria for eligibility nor may subscribers receive any payment or other benefit from a tax incremental district.

The bill requires an investor-owned electric utility whose service territory includes subscribers to a community solar facility to credit the electric bills of the

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subscribers based on their subscriptions. Also, under the bill, at the time that an investor-owned electric utility files tariffs with the Public Service Commission, the investor-owned electric utility must include options in the tariffs that allow subscribers to receive bill credits for subscriptions to community solar facilities. PSC must promulgate rules allowing for establishment of community solar facilities and for subscribers to receive electric bill credits for their subscriptions. PSC must also establish a rate used to calculate the amount of bill credits that subscribers receive, and the rate must be set for each investor-owned electric utility at a reasonably compensatory level that creates a community solar market that is capable of being financed considering the costs and benefits provided by community solar facilities. Under the bill, the PSC's community solar program rules must also satisfy various other requirements, including that the rules must modify existing interconnection standards, fees, and processes to facilitate interconnection of community solar facilities with the electric distribution grid; allow investor-owned electric utilities to recover costs of applying credits to subscribers' bills; and require subscriber organizations to maintain proof of financial responsibility ensuring the availability of funds for decommissioning community solar facilities.

The bill also specifies that community solar facilities are subject to the zoning ordinances applicable to the parcels on which they are located. Also under the bill, community solar facilities may not be established in a municipality unless the governing body of the municipality approves the establishment by a two-thirds vote. The bill also subjects the community solar facilities of subscriber organizations to property taxation. Under current law, a person engaged in generating electricity for others is exempt from property taxation but is instead subject to a tax based on gross revenues.

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:

- 1 **SECTION 1.** 66.0401 (1e) (bd) of the statutes is created to read:
- 2 66.0401 (1e) (bd) "Community solar facility" has the meaning given in s.
- 3 196.376 (1) (c).
- 4 **SECTION 2.** 66.0401 (1e) (bm) of the statutes is created to read:
- 5 66.0401 (1e) (bm) "Municipality" means a city, village, or town.
- 6 **SECTION 3.** 66.0401 (1m) (intro.) of the statutes is amended to read:

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

8 **SECTION 4.** 66.0401 (1s) of the statutes is created to read:

9 66.0401 **(1s)** REGULATION OF COMMUNITY SOLAR FACILITIES. (a) No community
10 solar facility may be established in a municipality unless the establishment is
11 approved by a two-thirds vote of the governing body of the municipality.

12 (b) Community solar facilities are subject to any zoning ordinance applicable
13 to the parcel on which the community solar facility is located. The conditions under
14 s. 66.0401 (1m) do not apply to restrictions on community solar facilities imposed by
15 a zoning ordinance of a political subdivision.

16 **SECTION 5.** 76.28 (1) (e) (intro.) of the statutes is amended to read:

17 76.28 **(1)** (e) (intro.) “Light, heat and power companies” means any person,
18 association, company or corporation, including corporations described in s. 66.0813,
19 qualified wholesale electric companies and transmission companies and except only
20 business enterprises carried on exclusively either for the private use of the person,
21 association, company or corporation engaged in them, or for the private use of a
22 person, association, company or corporation owning a majority of all outstanding
23 capital stock or who control the operation of business enterprises and except electric
24 cooperatives taxed under s. 76.48 and subscriber organizations, as defined in s.
25 196.376 (1) (i), that engage in any of the following businesses:

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1 **SECTION 6.** 196.01 (5) (b) 8. of the statutes is created to read:

2 196.01 (5) (b) 8. A subscriber organization, as defined in s. 196.376 (1) (i), if,
3 besides owning or operating a community solar facility, the subscriber organization
4 does not otherwise directly or indirectly provide electricity to the public.

5 **SECTION 7.** 196.376 of the statutes is created to read:

6 **196.376 Community solar programs. (1) DEFINITIONS.** In this section:

7 (a) “Applicable bill credit rate” means the dollar-per-kilowatt-hour rate
8 determined by the commission that is used to calculate a subscriber’s bill credit.

9 (b) “Bill credit” means the monetary value of the electricity in kilowatt-hours
10 generated by the community solar facility allocated to a subscriber to offset that
11 subscriber’s electricity bill.

12 (c) “Community solar facility” means a facility that generates electricity by
13 means of a solar photovoltaic device that produces for its subscribers a bill credit for
14 the electricity generated in proportion to the size of their subscription, and to which
15 all of the following apply:

16 1. The facility is located on one or more parcels of land and no other community
17 solar facility under the control of the same entity, an affiliated entity, or an entity
18 under common control is located on that land.

19 2. At the time the facility is initially approved by the commission, the facility
20 is not located within one mile, measured from the point of interconnection, of a solar
21 facility under the control of the same entity unless all of the following apply:

22 a. The other solar facility is a community solar facility and is located on one or
23 more parcels of land created before the effective date of this subd. 2. a. [LRB
24 inserts date], at least one of which is contiguous to the parcel of land on which the
25 facility is located.

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1 b. The other solar facility has its own distinct point of interconnection with the
2 investor-owned electric utility serving the territory where the solar facility is
3 located, including distinct metering and distinct ability to be connected or
4 disconnected to the utility.

5 3. The facility has at least 3 subscribers.

6 4. The facility generates not more than 5 megawatts of electricity.

7 5. No subscriber holds more than a 40 percent interest in the output of the
8 facility.

9 6. Not less than 60 percent of the capacity of the facility is subscribed to by
10 subscriptions of not more than 40 kilowatts.

11 (d) “Control” means the possession, direct or indirect, of the power to direct the
12 management and policies of an entity through any method.

13 (e) “Investor-owned electric utility” means a public utility that sells electricity
14 at retail but does not include a public utility owned and operated by city, village, or
15 town.

16 (f) “Non-ministerial permit” means a permit or approval necessary to construct
17 a community solar facility that is not granted based on discretion.

18 (g) “Renewable energy credit” means a tradable credit that represents one
19 megawatt hour of electricity produced from a renewable resource.

20 (h) “Subscriber” means a retail electric customer of an investor-owned electric
21 utility who satisfies all of the following:

22 1. The subscriber owns one or more subscriptions to a community solar facility
23 interconnected with the investor-owned electric utility.

24 2. The subscriber is located within the service territory of the investor-owned
25 electric utility where the community solar facility is located.

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1 (i) "Subscriber organization" means a for-profit or nonprofit entity that owns
2 or operates one or more community solar facilities.

3 (j) "Subscription" means a contract between a subscriber and the owner of a
4 community solar facility under which the estimated bill credits of the subscriber do
5 not exceed the average annual bill for the customer account to which the subscription
6 is attributed.

7 **(2) ADMINISTRATION.** (a) An investor-owned electric utility shall provide a bill
8 credit to a subscriber's subsequent monthly electric bill for the proportional output
9 of a community solar facility attributable to that subscriber. The value of the bill
10 credit for the subscriber shall be calculated by multiplying the subscriber's portion
11 of the kilowatt-hour electricity production from the community solar facility by the
12 applicable bill credit rate for the subscriber. Any amount of the bill credit that
13 exceeds the subscriber's monthly bill shall be carried over and applied to the next
14 month's bill in perpetuity.

15 (b) No subscriber may receive a subsidy from this state for which generating
16 electricity from a renewable energy resource is a criteria for eligibility and no
17 subscriber may receive a payment or other benefit from a tax incremental district
18 under s. 66.1105.

19 (c) An investor-owned electric utility shall provide bill credits to a community
20 solar facility's subscribers for electricity generated by the community solar facility
21 for not less than 25 years from the date the community solar facility is first placed
22 into operation.

23 (d) A subscriber organization shall, periodically and in a standardized
24 electronic format, provide to the investor-owned electric utility whose service
25 territory includes the location of the subscriber organization's community solar

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1 facility a subscriber list indicating the percentage of generation attributable to each
2 of the investor-owned electric utility's retail customers who are subscribers to a
3 community solar facility in accordance with the subscriber's portion of the output of
4 the community solar facility. The investor-owned electric utility shall create a
5 platform for the subscriber organization to periodically communicate updates to its
6 subscriber list to reflect canceling subscribers and new subscribers. The
7 investor-owned electric utility shall apply bill credits to the bills of subscribers
8 within one billing cycle following the cycle during which the energy earning the bill
9 credits is generated by the community solar facility.

10 (e) An investor-owned electric utility shall, on a monthly basis and in a
11 standardized electronic format, provide to a subscriber organization having a
12 community solar facility within the investor-owned electric utility's service territory
13 a report indicating the total value of bill credits generated by the subscriber
14 organization's community solar facility in the prior month as well as the amount of
15 the bill credit applied to each subscriber.

16 (f) A subscriber organization may accumulate bill credits if all of the electricity
17 generated by a community solar facility is not allocated to subscribers in a given
18 month. On an annual basis, the subscriber organization shall furnish to the
19 investor-owned electric utility whose service territory includes the location of the
20 subscriber organization's community solar facility instructions for distributing
21 accumulated bill credits to subscribers. The investor-owned electric utility shall pay
22 accumulated bill credits to a subscriber based on the subscriber's applicable bill
23 credit rate determined by the commission. If accumulated bill credits are not
24 allocated to a subscriber within 2 years of being accumulated, the investor-owned
25 electric utility shall purchase the credits by paying a wholesale

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1 dollar-per-kilowatt-hour rate for the kilowatt-hour electricity production
2 associated with the accumulated bill credits.

3 (g) Any renewable energy credits created from a community solar facility's
4 production of electricity are the property of the subscriber organization that owns or
5 operates the community solar facility. The subscriber organization may sell,
6 accumulate, retire, or distribute to subscribers the subscriber organization's
7 renewable energy credits.

8 **(3) COMMISSION; DUTIES; RULES.** (a) The commission shall promulgate rules
9 allowing for establishment of community solar facilities and for subscribers to
10 receive bill credits.

11 (b) At the time that an investor-owned electric utility files tariffs with the
12 commission, the investor-owned electric utility shall include options in the tariffs
13 that allow subscribers to receive bill credits for the subscriber's electricity bill.

14 (c) The commission shall establish the applicable bill credit rate for each
15 investor-owned electric utility at a reasonably compensatory level that creates a
16 community solar market that is capable of being financed considering, among other
17 things, the costs and benefits provided by community solar facilities participating in
18 the program.

19 (d) The rules promulgated under par. (a) shall do all of the following:

20 1. Reasonably allow for the creation and financing of community solar
21 facilities.

22 2. Allow all customer classes to participate as subscribers to a community solar
23 facility, and ensure participation opportunities for all customer classes.

24 3. Prohibit removing a customer from the customer's applicable customer class
25 because the customer subscribes to a community solar facility.

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1 4. Reasonably allow for the transferability and portability of subscriptions,
2 including allowing a subscriber to retain a subscription to a community solar facility
3 if the subscriber moves within the same investor-owned electric utility's service
4 territory.

5 5. Modify existing interconnection standards, fees, and processes as needed to
6 facilitate the efficient and cost effective interconnection of community solar facilities
7 and that allow an investor-owned electric utility to recover reasonable
8 interconnection costs for each community solar facility.

9 6. Provide for consumer protection in accordance with existing laws.

10 7. Allow an investor-owned electric utility to recover costs of applying bill
11 credits under this section.

12 8. Require that investor-owned electric utilities efficiently connect community
13 solar facilities to the electrical distribution grid and do not discriminate against
14 community solar facilities.

15 9. Require a subscriber organization to satisfy interconnection process
16 benchmarks, demonstrate site control, and obtain all applicable non-ministerial
17 permits for a community solar facility before the subscriber organization owns or
18 operates the facility.

19 10. Require a subscriber organization to establish a plan outlining time frames
20 and estimated costs for decommissioning its community solar facility upon
21 discontinuance of use of the facility. The commission shall require a subscriber
22 organization to maintain proof of financial responsibility ensuring the availability
23 of funds for decommissioning its community solar facility to ensure that

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SECTION 7

1 decommissioning costs are not borne by landowners, the state, or a city, village, town,
2 or county.

3 (END)