



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-2233/1
EHS:amn

2023 ASSEMBLY BILL 738

December 6, 2023 - Introduced by Representatives SCHRAA, SCHUTT, BEHNKE, BODDEN, GOEBEN, KRUG, MURPHY, O'CONNOR and MURSAU, cosponsored by Senator WANGGAARD. Referred to Committee on Energy and Utilities.

AUTHORS SUBJECT TO CHANGE

- 1 **AN ACT** *to amend* 196.49 (4); and *to create* 196.49 (4m) and 196.491 (3) (d) 9.
2 of the statutes; **relating to:** solar and wind energy projects on prime farmland.

Analysis by the Legislative Reference Bureau

Current law prohibits a person from beginning construction of a large electric generating facility (LEGF) unless the Public Service Commission grants a certificate of public convenience and necessity (CPCN) for the proposed facility. An LEGF is defined as a facility with a nominal operating capacity of 100 megawatts or more. In addition, a public utility may not engage in certain construction, expansion, or other projects unless PSC grants a certificate of authority (CA) for the proposed project.

Under this bill, PSC may not issue a CPCN or CA for a solar project or wind project unless it determines that no more than 35 percent of project land is classified as prime farmland under current state or federal law. The bill defines a solar project as an area of land on which solar photovoltaic panels or other devices used for collecting solar energy and any associated equipment and facilities are installed in order to generate electricity, designed for nominal operation at a capacity of 15 megawatts or more. The bill defines a wind project as an area of land on which devices used for collecting wind energy and any associated equipment and facilities are installed in order to generate electricity, with nominal operation at a capacity of 15 megawatts or more.

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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:

1 **SECTION 1.** 196.49 (4) of the statutes is amended to read:

2 196.49 (4) The **Except as provided in sub. (4m)**, the commission may not issue
3 a certificate under sub. (1), (2), or (3) for the construction of electric generating
4 equipment and associated facilities unless the commission determines that
5 brownfields, as defined in s. 238.13 (1) (a) or s. 560.13 (1) (a), 2009 stats., are used
6 to the extent practicable.

7 **SECTION 2.** 196.49 (4m) of the statutes is created to read:

8 196.49 (4m) (a) In this subsection:

9 1. "Solar project" means an area of land on which solar photovoltaic panels or
10 other devices used for collecting solar energy and any associated equipment and
11 facilities are installed in order to generate electricity, and which altogether is
12 designed for nominal operation at a capacity of 15 megawatts or more.

13 2. "Wind project" means an area of land on which devices used for collecting
14 wind energy and any associated equipment and facilities are installed in order to
15 generate electricity, and which altogether is designed for nominal operation at a
16 capacity of 15 megawatts or more.

17 (b) The commission may not issue a certificate under sub. (1), (2), or (3) for the
18 construction of a solar project or wind project unless the commission determines that
19 no more than 35 percent of the solar project or wind project is classified as prime
20 farmland, as defined in s. 91.01 (25), or is classified as prime farmlands, pursuant
21 to 7 CFR 657.5 (a).

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- 1 **SECTION 3.** 196.491 (3) (d) 9. of the statutes is created to read:
- 2 196.491 (3) (d) 9. For a solar project or wind project, as defined in s. 196.49 (4m)
- 3 1. and 2., respectively, the standard under s. 196.49 (4m) (b) is met.
- 4 **(END)**