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Details:

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Commerce, Utilities, Energy, & Rail (SC-CUER)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
  (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Gigi Godwin (LRB) (July/2011)

WISCONSIN LEGISLATURE

P.O. BOX 8952 • MADISON, WI 53708

FOR IMMEDIATE RELEASE
April 30, 2009

Contact: Sen. Jeff Plale 608-266-7505
Rep. Jim Soletski 608-266-0485
Sen. Randy Hopper 608-266-5300
Rep. Phil Montgomery 608-266-5840

Bipartisan Group of Legislators Introduce Wind Siting Bill

Plale, Soletski, Hopper, Montgomery and colleagues announce introduction of SB185

MADISON – A bipartisan coalition of Wisconsin legislators announced that they are introducing legislation that calls for the creation of uniform siting standards for wind energy projects. Senate Bill 185 (SB 185), and its Assembly companion, directs the Public Service Commission (PSC), after public input, including a stakeholder committee, to establish by rule, permitting standards to be applied by local or state government to wind energy installations, regardless of size and location.

"Too many wind projects are victims of delay tactics and other obstructions," Senator Jeff Plale, Chair of the Senate Committee on Commerce, Utilities, Energy, and Rail said. "SB 185 will enhance Wisconsin's economy by protecting and creating "green-collar" jobs; it will attract new investment to our state and support state energy policy. I look forward to working with my colleagues to ensure that we can make Wisconsin more attractive to wind energy and achieve the resulting economic and environmental benefits."

"A sensible wind energy policy will help Wisconsin harness the jobs and growth opportunities that green power provides," stated Representative Jim Soletski, Chair of the Assembly Energy and Utilities Committee. "I am excited to be working with a bi-partisan group of legislators from diverse regions of the state to remove the obstacles ~~in the way of~~ to more development of wind power in Wisconsin. By advancing this legislation, Wisconsin utilities can move toward meeting their obligation to generate clean energy and much needed jobs can be created for our workers."

"We can't build a 21st century energy infrastructure by digging in our heels," Senator Randy Hopper said. "This legislation will ensure that interested parties from all over our state can take part in developing the Public Service Commission's guidelines."

"Wind power is job-creating power," according to Representative Phil Montgomery. "A fair and uniform state standard for siting wind developments will create an environment of investment in our state while moving us closer to our green energy goals."

Currently, over 600 megawatts of proposed wind projects are stalled in Wisconsin due to the absence of clear, predictable regulations. This figure does not include potential projects that have been abandoned because wind developers are discouraged from constructing these important projects in our state. These costly delays and deterrents kill jobs and drain investment from Wisconsin. The status quo has put our state behind the rest of the country in developing green energy solutions.

SB 185 will move Wisconsin forward to become a leader in the development of wind energy and will create high paying jobs associated with this burgeoning industry. The legislation has eleven Senate sponsors and twenty Assembly sponsors.

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WISCONSIN LEGISLATURE

P. O. Box 7882 Madison, WI 53707-7882

FOR IMMEDIATE RELEASE
April 30, 2009

Contact: Sen. Jeff Plale 608-266-7505
Rep. Jim Soletski 608-266-0485
Sen. Randy Hopper 608-266-5300
Rep. Phil Montgomery 608-266-5840

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Hopper quote

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Montgomery quote

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FORWARD
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WISCONSIN LEGISLATURE
P.O. BOX 8952 • MADISON, WI 53708

MEDIA ADVISORY
April 29, 2009

Contact: Sen. Plale (608) 266-7505
Rep. Soletski (608)-266-0485
Rep. Phil Montgomery (608)-266-5840

LEGISLATORS TO ANNOUNCE INTRODUCTION OF BILL TO CREATE STATEWIDE WIND SITING STANDARDS

Will be joined by numerous business, labor, and environmental groups

Senator Jeff Plale (D-South Milwaukee), Chair of the Senate Committee on Commerce, Utilities, Energy, and Rail, Representative Jim Soletski (D-Green Bay), Chair of the Assembly Committee on Energy and Utilities, and Representative Phil Montgomery (R-Ashwaubenon) will be holding a press conference Thursday, April 30th to announce the introduction of legislation to improve the permitting process for wind energy projects in Wisconsin.

The legislators will be joined by several others including representatives of Wisconsin's business, labor, utilities, and environmental communities.

WHO:	Senator Jeff Plale Representative Jim Soletski Representative Phil Montgomery Representatives from business, labor, utilities, and the environment
WHAT:	Introduction of LRB-1048/4
WHERE:	Senate Parlor State Capital Madison, WI
WHEN:	Thursday, April 30th, 2009 10:00 am

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WISCONSIN LEGISLATURE
P.O. BOX 8952 • MADISON, WI 53708

MEDIA ADVISORY
April 29, 2009

Contact: Sen. Plale (608) 266-7505
Rep. Soletski (608)-266-0485
Rep. Montgomery (608)-266-5840

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WHO:	Senator Jeff Plale Representative Jim Soletski Representative Phil Montgomery Representatives from business, labor, utilities, and the environment
WHAT:	Introduction of SB 185
WHERE:	Senate Parlor State Capital Madison, WI
WHEN:	Thursday, April 30th, 2009 10:00 am

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FORWARD
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WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director
Laura D. Rose, Deputy Director

TO: SENATOR JEFF PLALE

FROM: David L. Lovell, Senior Analyst

RE: *Ecker Bros. v. Calumet County*, the Recent Court of Appeals Decision Invalidating the Calumet County Wind Energy Facility Siting Ordinance

DATE: August 4, 2009

In *Ecker Bros. v. Calumet County*, landowners in Calumet County challenged the county's wind energy facility siting ordinance as violating the limitations placed by the statutes on local regulation of wind energy facilities. The Circuit Court upheld the ordinance but, in an order dated July 15, 2009, the Court of Appeals reversed the Circuit Court, ruling that Calumet County had exceeded its statutory authority in adopting the ordinance and remanding the case to the Circuit Court with instructions to reconsider the original action in light of this ruling. The county has indicated it will appeal the decision to the Supreme Court. It has until August 15 to do so.

Calumet County Wind Energy Facility Ordinance

The Calumet County Wind Energy Facility Ordinance [Ch. 79, Calumet County Code of Ordinances] ("the ordinance") is fairly comprehensive, including both a regulatory permitting process and specific standards applicable to wind energy facilities ("facilities"). The permitting process specifies detailed information that must accompany a permit application as well as procedures for the review and approval of applications, modification of proposals, appeal from adverse determinations, and related matters. An application must include a decommissioning plan and a performance bond or other financial instrument to ensure that the decommissioning plan is carried out. The ordinance requires the owner of a facility to remove the facility within 12 months after taking the facility out of operation.

The ordinance specifies standards applicable to all facilities related to visual appearance, noise, shadow flicker, and interference with communications signals. It also specifies separate standards for small facilities (those with a capacity of 100 kilowatts or less, a height of 170 feet or less, and a rotor diameter of 60 feet or less) and large facilities (all other facilities) specifying minimum ground clearance for blades and set-backs from specified types of buildings, roads, property and municipal boundaries, and parks and wildlife areas. The ordinance includes additional provisions applicable only to large facilities related to public input in the approval process and repair of any damage to roads resulting from the construction of facilities.

Court of Appeals Decision

The Court of Appeals decision focused on the assertion of the plaintiffs that the ordinance exceeds the statutory authority of a municipality to regulate wind energy facilities.[1] The reasoning of the decision is as follows:

1. The Legislature favors alternative energy systems, including wind energy systems.

In support of this assertion, the decision cites s. 66.0403, Stats., which authorizes municipal permits that protect access to wind or sunlight to the owner of a wind or solar energy system. The decision also quotes an analysis of the legislative history of s. 66.0403 in a 2001 Court of Appeals decision.[2] It summarizes that analysis as follows:

> To encourage the use of renewable sources of energy, the legislature resolved to remove legal impediments to such systems in four ways: (1) codifying the right of individuals to negotiate and establish renewable energy resource easements; (2) clarifying the authority of, and encouraging, political subdivisions to employ existing land use powers for protecting access rights to the wind and sun; (3) creating a procedure for issuing permits to owners and builders of active solar and wind energy systems; and (4) encouraging political subdivisions to grant special exceptions and variances for renewable resource energy systems.

2. The statutes disfavor wholesale local control, which circumvents this policy, granting municipalities only limited authority to restrict wind energy systems.

This point refers to s. 66.0401 (1), Stats., the central statute at question in this case, which states:

> **66.0401 Regulation relating to solar and wind energy systems.**
>
> **(1)** AUTHORITY TO RESTRICT SYSTEMS LIMITED. No county, city, town, or village may place any restriction, either directly or in effect, on the installation or use of a solar energy system, as defined in s. 13.48 (2) (h) 1. g., or a wind energy system, as defined in s. 66.0403 (1) (m), unless the restriction satisfies one of the following conditions:
>
> (a) Serves to preserve or protect the public health or safety.
>
> (b) Does not significantly increase the cost of the system or significantly decrease its efficiency.
>
> (c) Allows for an alternative system of comparable cost and efficiency.

---

[1] The Court of Appeals also rejected a procedural argument raised by the county, relating to s. 893.80, Stats., the "notice of claims statute." This memorandum does not address this aspect of the decision.

[2] *State ex rel. Numrich v. City of Mequon Board of Zoning Appeals*, 242 Wis. 2d 677, 626 N.W.2d 366.

The decision characterizes this statute as "a state legislative restriction that expressly forbids political subdivisions from regulating solar and wind energy systems." It goes on to note that "[t]he scope of this preemption, however, expressly allows some local control insofar as they satisfy one of [the] three conditions" specified in s. 66.0401 (1) (a) to (c).

3. Local determinations regarding the siting of wind energy systems must be made on a case-by-case basis, where the municipality evaluates each proposed facility individually, to determine if a restriction is warranted.

The decision considers:

> ...the proper method for restricting wind energy systems: (1) a conditional use permit procedure that restricts systems as needed on a case-by-case basis, or (2) an ordinance creating a permit system with across-the-board regulations based on legislative policy-making.

Relying on two lines of reasoning, the decision concludes that the former model is what the Legislature intended in enacting s. 66.0401. First, it argues that establishment of across-the-board regulations is a policy-making exercise, legislative in nature. It notes that counties have no inherent power to govern and must rely on the powers delegated to them by the Legislature. On the matter of local regulation of renewable energy systems, it observes that "the Legislature already made the policy decision that it favors wind energy systems."

Second, it notes that s. 66.0401 (1) is written in the singular: "The statute's limit on local restrictions does not refer to *any* wind energy system nor to wind energy *systems*" but to "*a* system." It notes that the same syntax is used in describing the conditions under which restrictions are allowed. From this, the decision concludes that "the language of [s. 66.0401 (1)] indicates that political subdivisions must rely on the facts of an individual situation to make case-by-case restrictions."

4. The ordinance, in contrast, sets standards that any system must meet, regardless of the specifics of individual proposed systems.

This conclusion follows from the description of the ordinance in the first section of this memorandum.

5. Conclusion.

The decision concludes with the following observations:

> [T]his history does not indicate that the State intended to delegate the power of *policymaking*. Instead, the evidence is that the State delegated the power to *execute* and *administer* its established policy of favoring wind energy systems, and the statutory scheme was intended to create avenues for political subdivisions to assist the state...
>
> Because the legislature did not delegate legislative powers to localities, the County cannot make findings of legislative fact. The County thus

exceeded its authority under [s. 66.0401] when it created its wind energy ordinance.

Discussion

The court recommended the *Ecker Bros.* decision for publication. As a result, unless overturned by the Supreme Court, the decision will be binding on other Wisconsin courts when reviewing similar fact situations, that is, when reviewing similar county ordinances. How another court would apply the decision, though, cannot be predicted with any certainty.

The practical impact of the decision is not entirely certain, either. Clearly, it limits how local units of government, counties in particular, may restrict the construction of wind energy systems. Still, s. 66.0401 (1) does allow some local regulation of such systems. If the decision stands, local governments will undoubtedly develop new approaches to using that authority. Wind energy developers likely will face uncertainty with regard to local approvals for their projects – and possibly moratoria on new projects – while local governments go through this process.

In light of the decision, new local regulations are likely to be some form of case-by-case project review. This, too, is likely to increase the uncertainty that wind developers will face. While ordinances like the Calumet County ordinance can be very restrictive, they can also be quite predictable as to the outcome of a permit application process. The outcome of a case-by-case review process could be much harder to anticipate.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

DLL:jal


FORWARD
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WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director
Laura D. Rose, Deputy Director

TO: SENATOR JEFF PLALE AND REPRESENTATIVE JAMES SOLETSKI

FROM: David L. Lovell, Senior Analyst

RE: Senate Substitute Amendment 2 to 2009 Senate Bill 185 and Assembly Substitute Amendment 2 to 2009 Assembly Bill 256, Relating to Municipal Regulation of Wind Energy System

DATE: September 14, 2009

2009 Senate Bill 185 and Assembly Bill 256 are companion bills that relate to municipal regulation of wind energy systems. Senate Substitute Amendment 2 to Senate Bill 185 and Assembly Substitute Amendment 2 to Assembly Bill 256 are identical substitute amendments to the bills. This memorandum summarizes the provisions of the substitute amendments and identifies the differences between the substitute amendments and the bills. For convenience, this memorandum refers to the bills and the substitute amendments in the singular.

CURRENT LAW

Current law prohibits a municipality (county, city, town, or village) from placing any restriction, either directly or in effect, on the installation of a solar or wind energy system, unless the restriction satisfies one of the following conditions:

- The restriction serves to preserve or protect the public health or safety.
- The restriction does not significantly increase the cost of the system or significantly decrease its efficiency.
- The restriction allows for an alternative system of comparable cost and efficiency.

THE SUBSTITUTE AMENDMENT

The substitute amendment does not modify the provision of current law cited above, but creates a framework to allow limited and generally uniform local regulation of wind energy systems. Note that,

One East Main Street, Suite 401 • P.O. Box 2536 • Madison, WI 53701-2536
(608) 266-1304 • Fax: (608) 266-3830 • Email: leg.council@legis.state.wi.us
http://www.legis.state.wi.us/lc

while the current law addresses both wind and solar energy system, the framework created by the substitute amendment applies only to wind energy systems.

Limitations on Municipal Regulation of Wind Energy Systems

The substitute amendment directs the Public Service Commission (PSC) to promulgate rules that specify the maximum restrictions that a municipality ("political subdivision" in the substitute amendment) may impose on the installation or use of a wind energy system. It specifies that the subject matter of the rules ***must*** include setback requirements that provide reasonable protection from health effects of wind energy systems and decommissioning; it specifies that the subject matter ***may*** also 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, television, and telephone signals, or other matters.

The substitute amendment specifies that a municipality: (1) may not regulate wind energy systems unless it adopts an ordinance that is no more restrictive than the PSC rules; and (2) may not impose any restriction on a wind energy system that is more restrictive than the PSC rules.

The substitute amendment essentially "grandfathers" previously approved wind energy systems. It specifies that, if a municipality adopts an ordinance in conformance with the PSC rules, it may not apply that ordinance, or require approvals under that ordinance, to a wind energy system that it had already approved under a previous ordinance or under a development agreement. This language appears to apply to an amendment to a previous ordinance, as well as to a totally new ordinance, as that amendment itself is an ordinance.

The substitute amendment also specifies that a municipality may not prohibit or restrict testing activities to determine whether a site is suitable for the placement of a wind energy system. It provides that a municipality objecting to such testing may petition the PSC to impose reasonable restrictions on the testing.

Municipal Procedures

The substitute amendment specifies procedures that a municipality must follow in reviewing an application for a permit to install a wind energy system. In brief, a municipality must determine whether an application is complete within 45 days of receiving it and must take final action on the application within 90 days of determining that it is complete. A municipality may request additional information from an applicant, and is allowed 45 days from the receipt of that information to determine whether the application is then complete. A municipality may extend its 90-day review period for any of several specified reasons, but not for more than a total of 90 days. If a municipality does not have an ordinance in effect when it receives an application, the deadlines are delayed by approximately three months. If a municipality fails to make a determination of the completeness of an application within the 45-day limit, the application is considered to be complete; if it fails to take final action within the 90-day review period, the application is considered to be approved.

The substitute amendment specifies that, when reviewing an application for approval of a wind energy system, a municipality must create a record of its proceedings, including recordings of public

hearings and copies of all related documents. The municipality must base its decision on an application on written findings of fact supported by evidence in the record.

The substitute amendment directs the PSC to promulgate rules further elaborating these and other procedural requirements and requires municipalities to conform their procedures to the PSC rules.

Review of Municipal Actions

The substitute amendment specifies two options that an aggrieved party may use to appeal a municipality's actions on an application for approval to construct a wind energy system or to appeal a municipality's enforcement action relative to a wind energy system. Under the first option, the party may appeal the decision or action in the municipality's administrative review process; if still aggrieved following this review, the party may then appeal to the PSC. The further appeal must be made within 30 days of completion of the municipal review. If a municipality has not completed its review within 90 days, the party may then appeal to the PSC. Under the second option, an aggrieved party may appeal directly to the PSC.

When a case is appealed to the PSC, the municipality is required to provide the complete record of its proceeding to the PSC. The PSC may base its review on that record or it may expand the record it reviews. The substitute amendment requires the PSC to complete its review in 90 days, but allows the PSC to extend that time for good cause. If the PSC determines that the municipality's action did not comply with the PSC's rules or is otherwise unreasonable, the PSC's decision supersedes that of the municipality and the PSC may order an appropriate remedy.

The substitute amendment specifies that these are the only options allowed for review of a municipality's actions. Under either option, judicial review is not available until the PSC has completed a review of the case. Upon appeal to circuit court, the substitute amendment directs the court to review the PSC's decision, rather than that of the municipality.

Applicability

The substitute amendment applies to all wind energy systems, regardless of size (as does current law). Note, however, that a person who proposes to build an electric generating facility with an operating capacity of at least 100 megawatts, including a wind farm with this collective capacity, must first apply to the PSC for, and receive, a certificate of public convenience and necessity (CPCN). Under current law, municipal ordinances may not preclude or impede the construction of an electric generating facility for which the PSC has issued a CPCN. Thus, effectively, the substitute amendment applies to wind energy systems with an operating capacity less than 100 megawatts.

Other Provisions

Decommissioning

The substitute amendment directs the PSC to promulgate rules that require the owner of a wind energy system with an operating capacity of at least one megawatt to maintain proof of financial responsibility ensuring the availability of funds for decommissioning of the system upon discontinuance of its use.

Wind Siting Council

The substitute amendment creates a Wind Siting Council in the PSC. The membership of the council consists of representatives of wind energy developers and the broader energy industry, municipalities, environmental groups, realtors, and neighbors of wind energy systems, and includes two unspecified public members and a member of the University of Wisconsin System faculty with expertise in the health impacts of wind energy systems.

The substitute amendment directs the PSC to consult with the council in developing the various rules required under the substitute amendment. It also directs the council to survey the peer-reviewed scientific literature relating to the health effects of wind energy systems and to study state and national regulatory developments with regard to wind energy systems. The council must submit a report to the Legislature every five years describing the research and regulatory developments and any recommendations of the council for legislation based on those developments.

Department of Natural Resources Duties

The substitute amendment directs the Department of Natural Resources (DNR) to identify areas in the state where wind turbines, if placed in those areas, may have a significant adverse effect on bat and migratory bird populations. The DNR must maintain an Internet website that provides this information to the public and includes a map of the identified areas.

The substitute amendment directs the DNR to study whether the department's statutory authority is sufficient to adequately protect wildlife and the environment from any adverse effect from the siting, construction, or operation of wind energy systems. In conducting the study, the DNR must consider the authority of other state agencies and municipalities to regulate the environmental impact of wind energy systems. The DNR must submit its report on the study to the Legislature within 13 months after the provision's effective date. If the study concludes that the DNR's authority is not sufficient, the report must include recommendations for a bill that provides DNR with such authority.

COMPARISON OF THE SUBSTITUTE AMENDMENT TO THE BILL

The substitute amendment consists of Senate Substitute Amendment 1 to Senate Bill 185, as amended by Senate Amendments 1, 2, and 3 to Senate Substitute Amendment 1 (the form in which the bill was recommended for passage by the Senate Committee on Commerce, Utilities, Energy, and Rail), with certain additional modifications. This part of the memorandum identifies the differences between the substitute amendment and the bill. Except as otherwise indicated, the changes described in this section reflect the substance of Senate Substitute Amendment 1.

Limitations on Municipal Regulation of Wind Energy Systems

The ***bill*** lists a number of topics that the PSC rules ***may*** address. The ***substitute amendment*** specifies that the 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. (This provision reflects the substance of Senate Amendment 2 to Senate Substitute Amendment 1 to Senate Bill 185.)

The ***substitute amendment*** adds the "grandfathering" of previously approved wind energy systems, described earlier. (This provision was not a part of any of the amendments recommended by the Senate Committee on Commerce, Utilities, Energy, and Rail.)

Municipal Procedures

The ***substitute amendment*** specifies that a municipality, as soon as possible after receiving an application for approval of a wind energy system, must publish a Class 1 notice stating that the application has been filed with the municipality. The ***bill*** has no provision on this subject.

The ***substitute amendment*** authorizes a municipality to deny an application for approval of a wind energy system with an operating capacity of at least one megawatt if the proposed site of the system is in an area primarily designated for future residential or commercial development, as shown in a map that is adopted as part of a comprehensive plan under the Smart Growth law before June 2, 2009, or as shown in such maps after December 31, 2015, as part of a comprehensive plan that is updated as required under the Smart Growth law. An applicant whose application is denied under this provision may appeal the denial to the PSC, which may grant the appeal, notwithstanding the inconsistency of the application with the planned residential or commercial development, if the PSC determines that granting the appeal is consistent with the public interest. The ***bill*** has no provision on this subject.

The ***bill*** specifies that, if an application is approved or considered to be approved because the municipality did not make a timely determination as to the completeness of the application (sic) or is not subject to regulation because the municipality did not enact an ordinance in a timely manner, a municipality may not consider an applicant's minor modification to the application to constitute a new application. The ***substitute amendment*** reduces this provision to a simple statement that a municipality may not consider an applicant's minor modification to the application to constitute a new application.

The ***bill*** specifies that, if an application is considered to be approved because the municipality did not make a timely determination as to the completeness of the application (sic) or is not subject to regulation as described in the preceding paragraph, the municipality may not regulate the wind energy system to which the application applies. The ***substitute amendment*** deletes this provision.

Review of a Municipal Action

The ***bill*** applies the PSC review process only to wind energy systems with an operating capacity of one megawatt or more, allowing appeals of a municipality's action relating to smaller systems to be appealed into circuit court following any municipal review process. The ***substitute amendment*** applies the PSC process to all wind energy systems.

The ***bill*** specifies that the PSC may treat a municipality's determination that an application is incomplete as a decision to disapprove the application. The ***substitute amendment*** limits this to cases in which the PSC determines that the municipality has unreasonably withheld its determination that an application is complete.

Other Provisions

The ***substitute amendment*** adds the provision regarding proof of financial responsibility for decommissioning of wind energy systems, described earlier. (This provision reflects the substance of Senate Amendment 3 to Senate Substitute Amendment 1 to Senate Bill 185, except that that amendment applied the requirement prospectively but without regard to the size of the wind energy system.)

The ***substitute amendment*** adds the two duties of the DNR, described earlier.

The ***bill*** directs the PSC to establish an advisory committee with specified membership to advise it in the development of the rules the bill requires the PSC to promulgate. The ***substitute amendment*** replaces the advisory committee with the Wind Siting Council described earlier, and assigns to it the expanded duties also described earlier. (This provision largely reflects the substance of Senate Amendment 1 to Senate Substitute Amendment 1 to Senate Bill 185.)

The ***substitute amendment*** directs the PSC to hold at least two public hearings prior to promulgating its rules on wind energy systems. At least one of the hearings must be held in Monroe County and at least one must be held in an area outside of Dane County and Monroe County in which developers have proposed wind energy systems. The ***bill*** has no provision on this subject.

Under ***current law***, before a person may construct a large electric generating facility (a facility with an operating capacity of 100 megawatts or more), the person must obtain a CPCN from the PSC. The ***bill*** specifies that, in reviewing a CPCN application for a wind energy system, the PSC must consider whether installation or use of the system is consistent with the restrictions specified in the PSC's rules. The ***substitute amendment*** replaces the word "restrictions" with "standards."

If you have questions regarding the bill or the substitute amendment, please contact me at the Legislative Council staff offices.

DLL:jal