

Kenosha



County

MEMORANDUM

Communication to Kenosha County Board of Supervisors
(For Informational Purposes Only)

COMMUNICATION TO APPEAR ON COUNTY BOARD MEETING AGENDA: 04/18/2023

SUBJECT: A Resolution to Request the State of Wisconsin Revise Solar Energy System Law

COMMITTEE: Choose a Committee

SUBMITTED BY: Vice Chair Decker

RESOLUTION TO BE PRESENTED AT Legislative COMMITTEE ON 05/16/2023

ADDITIONAL INFORMATION (optional):



KENOSHA COUNTY
BOARD OF SUPERVISORS

Resolution No. _____

Subject: A Resolution to Request the State of Wisconsin Revise Solar Energy System Law			
Original <input checked="" type="checkbox"/>	Revised <input type="checkbox"/>	2nd Correction <input type="checkbox"/>	Resubmitted <input type="checkbox"/>
Date Submitted: 3/22/2023		Date Resubmitted:	
Submitted by: Vice Chair Decker			
Fiscal Note Attached <input type="checkbox"/>		Legal Note Attached <input type="checkbox"/> Agreement	
Prepared by: Vice Chair Decker		Signature:	

WHEREAS, as a result of Wisconsin State law, counties possess limited authority to regulate solar energy systems in their communities; and,

WHEREAS, the regulation of solar energy systems is generally dependent on size, with smaller solar energy systems being subject to Wis. Stat. § 66.0401(1m), and those greater than one hundred (100) megawatts the Wisconsin Public Service Commission (PSC); and

WHEREAS, while Wis. Stat. § 66.0401(1m) provides a mechanism for counties to consider areas of local concern, it provides little ability for counties to restrict or even deny a project based on local concerns from residents, environmental impact, or economic impact; and

WHEREAS, within Wis. Stat. § 66.0401(1m), terms like "public health" or "safety" are undefined, a clear evidentiary threshold was never included; and, while found with Wis. Stat. § 59.69, the term "welfare" was not included with the reason for its omission uncertain; and

WHEREAS, public utilities and private developers are using a loophole in Wis. Stat. §196.491(3)(d)2 and 3 that exempts wholesale merchant plants from meeting the same standards as public utility companies in order to receive their Certificate of Public Convenience and Necessity (CPCN) and then immediately turn around and sell the project to a public utility company; and

WHEREAS, the State of Wisconsin has given planning and zoning authority to the County through Wis. Stat. § 59.69, specifically in order to "promote the public health, safety, convenience and general welfare; to encourage planned and orderly land use development; to protect property values and the property tax base" and to "preserve wetlands; to conserve soil, water and forest resources; to protect the beauty and amenities of

landscape and man-made developments; to provide healthy surroundings for family life." However, when it comes to utility-scale solar, the County process and authority is completely circumvented;

NOW, THEREFORE, BE IT RESOLVED, that the Kenosha County Board of Supervisors hereby requests that the Wisconsin State Legislature revise Wis. Stat. § 66.0401(1m) and Wis. Stat. § 196.491 as follows in order to grant Wisconsin counties the authority to responsibly site utility-scale solar installations in order to maintain orderly planning and comply with the statutory requirement laid out in Wis. Stat. § 66.1001(3) to adhere to the objectives, goals, and policies contained in the County's comprehensive plan:

~~66.0401(1m) Authority to restrict systems limited. No political subdivision may place any restriction, either directly or in effect, on the installation or use of a wind energy system that is more restrictive than the rules promulgated by the commission under s. 196.378 (4g) (b). No political subdivision 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, 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.~~

~~196.491(3)(d)2 Except as provided under par. (e), the commission shall approve an application filed under par. (a) 1. for a certificate of public convenience and necessity only if the commission determines all of the following:~~

- ~~2. The proposed facility satisfies the reasonable needs of the public for an adequate supply of electric energy. This subdivision does not apply to a wholesale merchant plant.~~
- ~~3. The design and location or route is in the public interest considering alternative sources of supply, alternative locations or routes, individual hardships, engineering, economic, safety, reliability and environmental factors, except that the commission may not consider alternative sources of supply or engineering or economic factors if the application is for a wholesale merchant plant. In its consideration of environmental factors, the commission may not determine that the design and location or route is not in the public interest because of the impact of air pollution if the proposed facility will meet the requirements of ch. 285.; and~~

BE IT FURTHER RESOLVED, that a copy of this resolution shall be forwarded to Kenosha County's legislative delegation, Governor Evers, all other Wisconsin counties, and the Wisconsin Counties Association.

Erin Decker