

Municipal Law Newsletter

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Wisconsin's Local Government Response to Hyper Scale Data Centers: An Overview

Over the past two years, Wisconsin has become a focal point for hyperscale data center development. Projects associated with Microsoft, Meta, OpenAI, Oracle, Vantage, QTS, and other developers have generated billions of dollars in proposed investment and unprecedented demand for electric transmission, water infrastructure, and land development. The rapid pace and scale of these proposals has prompted responses from local governments across the state. As of yet, the responses have not led to a state-wide coordinated legislative approach, in contrast to neighboring states such as Minnesota.¹ Instead, counties, cities, villages, and towns are experimenting with a wide range of regulatory and policy tools as they attempt to balance economic opportunity against concerns about growth, infrastructure, and local control.

The most common response has been the adoption of temporary moratoria. From Dane County and Monroe County to Door, Green, Jefferson, Oneida, Shawano, and Winnebago Counties, local governments have enacted temporary bans ranging from six to eighteen months on new data center development. Municipalities including Madison, Superior, Oshkosh, and Hobart have adopted similar measures.

Notably, many of these jurisdictions had no active data center proposals pending when they acted. Rather than responding to a specific project, officials instead have cited the need for time to study the issue, evaluate potential impacts, and develop appropriate regulations before considering actual proposals. The message is clear: many local governments would rather establish rules in advance than navigate a hyperscale proposal without a policy framework.

As communities move beyond temporary moratoria, many are developing permanent regulatory strategies. Several jurisdictions have concluded that traditional zoning provisions are not well suited to projects that may consume hundreds of megawatts of electricity, occupy hundreds of acres, and require significant utility infrastructure.

The City of Menomonie adopted a new zoning framework in response to a proposed \$1.6 billion data center. Park Falls created a special data center district featuring extensive restrictions. Jefferson adopted regulations addressing utility planning and setbacks from residential areas. Burnett County has created a new classification that subjects data centers to additional county-level review. These actions reflect a growing recognition that data centers present land-use issues distinct from traditional industrial development and may warrant tailored regulatory treatment.

Another common theme is that public controversy often arises from the development process itself rather than from the proposed facilities. Repeatedly, local opposition has centered on concerns about secrecy, transparency, and lack of community involvement. In Beaver Dam, for example, residents questioned the

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The Importance of Wisconsin's Notice of Claim Statute in the Era of AI-Assisted Litigation

Recent articles from Forbes, the American Bar Association, and Bloomberg Law have highlighted a developing trend: artificial intelligence (AI) is fueling a surge of pro se litigation. AI tools make it easier for self-represented litigants to draft pleadings, research legal theories, and pursue claims without counsel. Municipal officials and attorneys should expect AI-assisted pro se lawsuits to become more common, particularly because municipalities regulate many aspects of daily life, including property taxes, land use and zoning, public records, ordinance enforcement, and local permitting and licensing.

That development makes a refresher on Wisconsin's notice-of-claim statute worthwhile. Wisconsin Stat. § 893.80(1d) generally requires a potential plaintiff to satisfy notice requirements before bringing or maintaining an action against a municipality or its officers, officials, agents, or employees. From a practical lens, the statute gives municipalities early notice of potential claims, an opportunity to investigate while facts are still fresh, and a chance to settle before litigation begins.

The notice-of-claim statute is also an important defense tool. A claimant generally must serve a written and signed notice of the circumstances of the claim within 120 days after the event giving rise to the claim. The claimant also must present the appropriate clerk with the claimant's address and an itemized statement of the relief sought. Those requirements are not mere technicalities. When a claimant does not comply, the municipality may seek dismissal of the lawsuit.

A pleading generated with the help of an AI tool still must satisfy the same procedural prerequisites as any other lawsuit. That point may prove especially useful in cases filed by self-represented litigants, where the complaint may be lengthy, polished, and legally framed, but the claimant may not have taken the required pre-suit steps. In turn, city attorneys should carefully review the claim history at the outset of the case, including whether the claimant served a timely notice, whether the notice was served on the correct municipal official, whether the claimant presented an itemized statement of relief, whether the municipality disallowed the claim or allowed the statutory period to run, and whether noncompliance should be pleaded as an affirmative defense.

Just as important, municipalities must preserve the defense. In 2019, the Wisconsin Supreme Court held in *Maple Grove Country Club v. Maple Grove Estates Sanitary District*, 2019 WI 43 (April 23, 2019) (Municipal Law Newsletter, May/June 2019) that noncompliance with the notice-of-claim statute is an affirmative defense, not a jurisdictional defect that can be raised at any time. As a result, a municipality that wants to rely on noncompliance must plead the defense in its responsive pleading. Simply denying an allegation that the

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Wisconsin Court of Appeals Upholds Act 10

2011 Wisconsin Act 10 (Act 10) significantly modified the collective bargaining rights of municipal employees and state employees. In a 2-1 unauthored decision in *Abbotsford Education Association et al. v. Wisconsin Employment Relations Commission et al.* issued July 29, 2026, the Wisconsin Court of Appeals rejected a challenge to Act 10. As a result of the decision, Act 10 remains in full force and effect.

The plaintiffs alleged that Act 10 is unconstitutional under the equal protection clause of the Wisconsin Constitution. A circuit court ruled in favor of the plaintiffs and struck down various provisions of Act 10. See "Wait and See After Dane County Judge Issues Decision on Act 10," Municipal Law Newsletter (Dec. 11, 2024). The circuit court later delayed its decision from taking effect pending the court of appeals' decision. The court of appeals has now reversed the circuit court's decision and directed the circuit court to enter a judgment dismissing the case.

Surprisingly for a case of substantial and continuing public interest, the decision was unauthored and, as a result, will not be published. This means that the decision may generally not be cited in any Wisconsin court as precedent or authority, and the court's analysis should have little impact on future cases. The court of appeals relied heavily on the analysis in prior decisions by the Wisconsin Supreme Court and the United States Court of Appeals for the Seventh Circuit, both of which upheld Act 10.

This decision is unlikely to be the last word in the matter. The plaintiffs have until August 28, 2026, to file a petition for review by the Wisconsin Supreme Court. The Wisconsin Supreme Court has discretion to accept or reject the petition for review. If the Wisconsin Supreme Court declines to accept the petition for review, the court of appeals decision upholding Act 10 will be the final decision in the matter. If the Wisconsin Supreme Court agrees to consider the case, the Wisconsin Supreme Court's decision will be the final decision and would likely be issued in spring 2027.

Municipalities do not need to take any action as a result of this decision. All provisions of Act 10 remain in effect and parties can continue to bargain and negotiate in accordance with Act 10's requirements. If the Wisconsin Supreme Court issues a decision altering the status quo, municipalities should work closely with their legal counsel. If any municipality has questions about bargaining, please reach out to a member of the Firm's Municipal Law Practice Group.

— Heather L. Curnutt and Brian P. Goodman

Hyper Scale Data Centers

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lack of information provided to the public over the facility's energy usage. In DeForest, local criticism emerged over the perception that discussions were kept private before becoming public. In Cassville, uncertainty regarding the identity of the prospective developer fueled concerns among residents. In Janesville, citizen-led initiatives sought greater voter involvement in major development decisions. These examples suggest that for many communities, the manner in which projects are introduced may be as important as the projects themselves.

The local government response also reveals a consistent set of substantive concerns driving local government action. Water consumption has become a particularly important issue. Communities evaluating large-scale data centers have questioned the long-term implications of groundwater withdrawals and cooling requirements.

Electricity demand and transmission present another challenge, though Wisconsin regulators have begun to address these issues. In May, the Wisconsin Public Service Commission (PSCW) approved a large customer and bespoke resource tariff proposed by Wisconsin Electric Power Company designed to insulate non-data center ratepayers from power costs while imposing stringent financial and credit restrictions. Madison Gas & Electric has proposed a similar tariff aimed at data centers with projected demands of at least 100 MW.

More recently, the PSCW paused its consideration of an application from the American Transmission Company to build more than \$1 billion dollars of proposed transmission infrastructure intended to serve the Port Washington data center project in Ozaukee County in order to give the company an opportunity to submit a revised application for the required permit.

Local officials have also expressed concern about loss of agricultural land, compatibility with surrounding land uses, impacts on rural character, and the extent to which existing taxpayers and utility customers may be asked to support infrastructure expansions necessitated by private development.

Not all local responses have been restrictive. Some communities have sought ways to accommodate development while ensuring greater public oversight. Washington County, for example, adopted an advisory resolution supporting the use of existing infrastructure to facilitate large-scale data center development. In Port Washington, local officials have continued to advance the Vantage/OpenAI/Oracle Lighthouse project despite substantial public debate and controversy. These examples suggest that not all Wisconsin local governments are opposed to data center development as a matter of principle. Instead, the debate often centers on transparency, local control, environmental impacts, infrastructure demands, and the conditions under which large-scale projects should proceed.

Another notable trend is the regionalization of policy

responses. Communities that have never received a data center proposal are nevertheless adopting moratoria, studying zoning changes, and monitoring developments elsewhere in Wisconsin. Local officials appear to be learning from experiences in Menomonie, Port Washington, DeForest, Beaver Dam, and other communities. As a result, data centers have become not merely a local land-use issue but a statewide policy discussion involving counties and municipalities far removed from actual project sites. This diffusion of concern suggests that Wisconsin has entered a new phase in which local governments are proactively preparing for a potential wave of hyperscale development.

A notable example in that regard is the 13-member Dane County Advisory Committee on Data Centers which was established in 2026 to impartially gather facts, research and analysis in order to issue recommendations on the economic, environmental, and community implications of data center development within Dane County. The committee is comprised of local government officials, community stakeholders, and members with knowledge and expertise on a wide range of subject matter including energy and water use and their impacts on local utilities and ratepayers; land use and environmental compatibility, including farmland preservation and infrastructure planning; economic and fiscal impacts, including tax base and employment effects; and intergovernmental coordination and policy options for review of data center proposals.

With data center development a central issue in the gubernatorial election and numerous legislative proposals continuing to churn through legislative committees, the issue is not likely to fade away any time soon. But in the continued absence of a coordinated statewide response, local governments would be well advised to be proactive in developing their responses to the issue.

— *Richard A. Heinemann,*
with research assistance from Will Carter

¹ In 2025, Minnesota enacted Minnesota Session Laws Chapter 12 (H.F. 16), which established a formal state coordination process for data center proposals while establishing water use review standards and tying tax incentives to sustainability and workforce requirements.

Claim Statute in the Era of AI-Assisted Litigation

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plaintiff complied with the statute is not enough.

The practical takeaway is simple: when a city receives a summons and complaint from a self-represented litigant, the notice-of-claim statute should be at the top of the initial defense checklist. These threshold issues are increasingly important as a means of minimizing litigation costs in the AI era. While AI may help plaintiffs get their day in court, it does not excuse failure to comply with Wisconsin's municipal notice requirements.

— *Emmerson A. Mirus*



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