



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-2363/1
MDK:wlj

2015 SENATE BILL 794

March 21, 2016 – Introduced by Senator STROEBEL, cosponsored by Representatives CRAIG, R. BROOKS, HUTTON, JACQUE, KATZMA, KREMER, J. OTT and SANFELIPPO. Referred to Committee on Natural Resources and Energy.

1 **AN ACT to repeal** 196.025 (1) (ag) 1., 196.025 (1) (c), 196.378 (title), 196.378 (1)
2 (intro.), 196.378 (1) (ag) and (am), 196.378 (1) (b) to (d), 196.378 (1) (dm),
3 196.378 (1) (fg) to (fr), 196.378 (1) (h) 2., 196.378 (1) (i), 196.378 (1) (k), 196.378
4 (1) (m), 196.378 (1) (o) and (p), 196.378 (2), 196.378 (3), 196.378 (4), 196.378
5 (4m), 196.378 (4r) and 196.378 (5); **to renumber** 196.378 (1) (ar), 196.378 (1)
6 (h) (intro.) and 1. (intro.), 196.378 (1) (h) 1m. and 196.378 (1) (j); **to renumber**
7 **and amend** 196.378 (1) (g), 196.378 (1) (h) 1. a. to j. and 196.378 (4g); **to**
8 **consolidate, renumber and amend** 196.025 (1) (ag) (intro.) and 2.; **to amend**
9 16.75 (12) (a) 4., 26.42 (1) (c), 66.0401 (1e) (a), 66.0401 (1m) (intro.), 66.0401 (4)
10 (b), 66.0401 (4) (c), 66.0401 (4) (f) 1., 66.0401 (4) (g), 66.0401 (5) (d), 66.0401 (6)
11 (c), 70.111 (18), 77.54 (30) (a) 1m., 79.005 (1b), 79.005 (4) (d), 93.46 (1) (d) 3.,
12 196.025 (1) (ar), 196.374 (2) (a) 3., 196.374 (3) (a), 196.491 (3) (dg), 238.15 (1)
13 (g) and 285.48 (4) (a); and **to create** 79.005 (1dg) of the statutes; **relating to:**

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1 renewable portfolio standards applicable to certain electric utilities and
2 cooperatives.

Analysis by the Legislative Reference Bureau

This bill eliminates requirements under current law for electric utilities and retail electric cooperatives (electric providers) to ensure that, in a given year, a specified percentage of the electricity that the electric provider sells to retail customers or members is derived from renewable resources.

The requirements are commonly and collectively referred to as renewable portfolio standards (RPSs). “Renewable resource” is defined to include a resource deriving electricity from any of the following: certain fuel cells; tidal or wave action; solar thermal electric or photovoltaic energy; wind power; geothermal technology; biomass; certain synthetic gases; certain densified fuel pellets; fuels produced by pyrolysis of organic or waste material; and certain hydroelectric facilities. In addition, current law allows the Public Service Commission (PSC) to promulgate rules designating other resources as renewable resources. Under that authority, the PSC has promulgated rules designating biogas a renewable resource. Current law also provides for the creation of credits based on the electricity that an electric provider derives from renewable resources. An electric provider may use the credits it creates to comply with an RPS for a particular year or sell the credits to another electric provider who may use the purchased credits to comply with an RPS. The bill eliminates all of the foregoing requirements and provisions.

The bill also eliminates a goal under current law that, by December 31, 2015, 10 percent of all electricity consumed in the state is derived from renewable resources. In addition, the bill eliminates a requirement under current law for the PSC to make annual reports regarding the goal.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 **SECTION 1.** 16.75 (12) (a) 4. of the statutes is amended to read:

4 16.75 (12) (a) 4. “Renewable resource” has the meaning given in s. ~~196.378 (1)~~
5 ~~(h) 1. or 2.~~ 79.005 (3r) (a) and includes a resource, as defined in s. ~~196.378 (1) (j)~~ 79.005
6 (5), that derives electricity from hydroelectric power.

7 **SECTION 2.** 26.42 (1) (c) of the statutes is amended to read:

8 26.42 (1) (c) Electricity, ~~including electricity that satisfies the requirements in~~
9 ~~s. 196.378 (2).~~

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1 **SECTION 3.** 66.0401 (1e) (a) of the statutes is amended to read:

2 66.0401 (1e) (a) “Application for approval” means an application for approval
3 of a wind energy system under rules promulgated by the commission under s.
4 ~~196.378 (4g) (e) 1~~ 196.379 (3) (a).

5 **SECTION 4.** 66.0401 (1m) (intro.) of the statutes is amended to read:

6 66.0401 (1m) AUTHORITY TO RESTRICT SYSTEMS LIMITED. (intro.) No political
7 subdivision may place any restriction, either directly or in effect, on the installation
8 or use of a wind energy system that is more restrictive than the rules promulgated
9 by the commission under s. ~~196.378 (4g) (b)~~ 196.379 (2). No political subdivision may
10 place any restriction, either directly or in effect, on the installation or use of a solar
11 energy system, as defined in s. 13.48 (2) (h) 1. g., or a wind energy system, unless the
12 restriction satisfies one of the following conditions:

13 **SECTION 5.** 66.0401 (4) (b) of the statutes is amended to read:

14 66.0401 (4) (b) A political subdivision shall make a record of its decision making
15 on an application for approval, including a recording of any public hearing, copies of
16 documents submitted at any public hearing, and copies of any other documents
17 provided to the political subdivision in connection with the application for approval.
18 The political subdivision’s record shall conform to the commission’s rules
19 promulgated under s. ~~196.378 (4g) (e) 2~~ 196.379 (3) (b).

20 **SECTION 6.** 66.0401 (4) (c) of the statutes is amended to read:

21 66.0401 (4) (c) A political subdivision shall base its decision on an application
22 for approval on written findings of fact that are supported by the evidence in the
23 record under par. (b). A political subdivision’s procedure for reviewing the
24 application for approval shall conform to the commission’s rules promulgated under
25 s. ~~196.378 (4g) (e) 3~~ 196.379 (3) (c).

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1 **SECTION 7.** 66.0401 (4) (f) 1. of the statutes is amended to read:

2 66.0401 (4) (f) 1. Except as provided in subd. 2., a political subdivision may not
3 deny or impose a restriction on an application for approval unless the political
4 subdivision enacts an ordinance that is no more restrictive than the rules the
5 commission promulgates under s. ~~196.378 (4g) (b)~~ 196.379 (2).

6 **SECTION 8.** 66.0401 (4) (g) of the statutes is amended to read:

7 66.0401 (4) (g) A political subdivision that chooses to regulate wind energy
8 systems shall enact an ordinance, subject to sub. (6) (b), that is no more restrictive
9 than the applicable standards established by the commission in rules promulgated
10 under s. ~~196.378 (4g)~~ 196.379.

11 **SECTION 9.** 66.0401 (5) (d) of the statutes is amended to read:

12 66.0401 (5) (d) The commission may confine its review to the records it receives
13 from the political subdivision or, if it finds that additional information would be
14 relevant to its decision, expand the records it reviews. The commission shall issue
15 a decision within 90 days after the date on which it receives all of the records it
16 requests under par. (c), unless for good cause the commission extends this time
17 period in writing. If the commission determines that the political subdivision's
18 decision or enforcement action does not comply with the rules it promulgates under
19 s. ~~196.378 (4g)~~ 196.379 or is otherwise unreasonable, the political subdivision's
20 decision shall be superseded by the commission's decision and the commission may
21 order an appropriate remedy.

22 **SECTION 10.** 66.0401 (6) (c) of the statutes is amended to read:

23 66.0401 (6) (c) If a political subdivision enacts an ordinance under sub. (4) (g)
24 after the commission's rules promulgated under s. ~~196.378 (4g)~~ 196.379 take effect,
25 the political subdivision may not apply that ordinance to, or require approvals under

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1 that ordinance for, a wind energy system approved by the political subdivision under
2 a previous ordinance or under a development agreement.

3 **SECTION 11.** 70.111 (18) of the statutes is amended to read:

4 70.111 (18) ENERGY SYSTEMS. Biogas or synthetic gas energy systems, solar
5 energy systems, and wind energy systems. In this subsection, “biogas or synthetic
6 gas energy system” means equipment which directly converts biomass, as defined
7 under section 45K (c) (3) of the Internal Revenue Code, as interpreted by the Internal
8 Revenue Service, into biogas or synthetic gas, equipment which generates electricity,
9 heat, or compressed natural gas exclusively from biogas or synthetic gas, equipment
10 which is used exclusively for the direct transfer or storage of biomass, biogas, or
11 synthetic gas, and any structure used exclusively to shelter or operate such
12 equipment, or the portion of any structure used in part to shelter or operate such
13 equipment that is allocable to such use, if all such equipment, and any such
14 structure, is located at the same site, and includes manure, substrate, and other
15 feedstock collection and delivery systems, pumping and processing equipment,
16 gasifiers and digester tanks, biogas and synthetic gas cleaning and compression
17 equipment, fiber separation and drying equipment, and heat recovery equipment,
18 but does not include equipment or components that are present as part of a
19 conventional energy system. In this subsection, “synthetic gas” is a gas that qualifies
20 as a renewable resource under s. ~~196.378 (1) (h) 1. h.~~ 79.005 (3r) (a) 8. In this
21 subsection, “solar energy system” means equipment which directly converts and
22 then transfers or stores solar energy into usable forms of thermal or electrical energy,
23 but does not include equipment or components that would be present as part of a
24 conventional energy system or a system that operates without mechanical means.
25 In this subsection, “wind energy system” means equipment which converts and then

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1 transfers or stores energy from the wind into usable forms of energy, but does not
2 include equipment or components that would be present as part of a conventional
3 energy system. Until the tax incremental district terminates, the exemption under
4 this subsection for biogas or synthetic gas energy systems does not apply to property
5 in existence on January 1, 2014, and located in a tax incremental financing district
6 in effect on January 1, 2014.

7 **SECTION 12.** 77.54 (30) (a) 1m. of the statutes is amended to read:

8 77.54 (30) (a) 1m. Biomass, as defined in s. ~~196.378 (1) (ar)~~ 79.005 (1dr), that
9 is used for fuel sold for residential use.

10 **SECTION 13.** 79.005 (1b) of the statutes is amended to read:

11 79.005 (1b) "Alternative energy resource" means a renewable resource, as
12 defined in s. ~~196.378 (1) (h)~~; garbage, as defined in s. 289.01 (9); or
13 nonvegetation-based industrial, commercial, or household waste.

14 **SECTION 14.** 79.005 (1dg) of the statutes is created to read:

15 79.005 (1dg) "Biogas" means a gas created by the anaerobic digestion or
16 fermentation of biomass, food processing waste, or discarded food.

17 **SECTION 15.** 79.005 (4) (d) of the statutes is amended to read:

18 79.005 (4) (d) Replacing steam generating equipment at a combustion-based
19 renewable facility, as defined in s. ~~196.378 (1) (g)~~, that is located in this state, to
20 increase efficiency or capacity, if the facility remains a combustion-based renewable
21 facility, as defined in s. ~~196.378 (1) (g)~~, after replacing the equipment.

22 **SECTION 16.** 93.46 (1) (d) 3. of the statutes is amended to read:

23 93.46 (1) (d) 3. Electricity, including electricity that satisfies the requirements
24 in s. ~~196.378 (2)~~.

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1 **SECTION 17.** 196.025 (1) (ag) (intro.) and 2. of the statutes are consolidated,
2 renumbered 196.025 (1) (ag) and amended to read:

3 196.025 (1) (ag) *Definitions* Definition. In this subsection: ~~2. “Wholesale,~~
4 “wholesale supplier” has the meaning given in s. 16.957 (1) (w).

5 **SECTION 18.** 196.025 (1) (ag) 1. of the statutes is repealed.

6 **SECTION 19.** 196.025 (1) (ar) of the statutes is amended to read:

7 196.025 (1) (ar) *Consideration of energy priorities*. Except as provided in pars.
8 (b) to and (d), to the extent cost-effective, technically feasible and environmentally
9 sound, the commission shall implement the priorities under s. 1.12 (4) in making all
10 energy-related decisions and orders, including strategic energy assessment, rate
11 setting and rule-making orders.

12 **SECTION 20.** 196.025 (1) (c) of the statutes is repealed.

13 **SECTION 21.** 196.374 (2) (a) 3. of the statutes is amended to read:

14 196.374 (2) (a) 3. The commission may not require an energy utility to
15 administer or fund any energy efficiency or renewable resource program that is in
16 addition to the programs required under subd. 1. and any ordered program of the
17 utility. ~~This subdivision does not limit the authority of the commission to enforce an~~
18 ~~energy utility’s obligations under s. 196.378.~~

19 **SECTION 22.** 196.374 (3) (a) of the statutes is amended to read:

20 196.374 (3) (a) *In general*. The commission shall have oversight of programs
21 under sub. (2). The commission shall maximize coordination of program delivery,
22 including coordination between programs under subs. (2) (a) 1., (b) 1. and 2., and (c)
23 and (7), ordered programs, low-income weatherization programs under s. 16.957,
24 ~~renewable resource programs under s. 196.378,~~ and other energy efficiency or
25 renewable resource programs. The commission shall cooperate with the department

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1 of natural resources to ensure coordination of energy efficiency and renewable
2 resource programs with air quality programs and to maximize and document the air
3 quality improvement benefits that can be realized from energy efficiency and
4 renewable resource programs.

5 **SECTION 23.** 196.378 (title) of the statutes is repealed.

6 **SECTION 24.** 196.378 (1) (intro.) of the statutes is repealed.

7 **SECTION 25.** 196.378 (1) (ag) and (am) of the statutes are repealed.

8 **SECTION 26.** 196.378 (1) (ar) of the statutes is renumbered 79.005 (1dr).

9 **SECTION 27.** 196.378 (1) (b) to (d) of the statutes are repealed.

10 **SECTION 28.** 196.378 (1) (dm) of the statutes, as created by 2011 Wisconsin Act
11 34, is repealed.

12 **SECTION 29.** 196.378 (1) (fg) to (fr) of the statutes are repealed.

13 **SECTION 30.** 196.378 (1) (g) of the statutes is renumbered 79.005 (3g) and
14 amended to read:

15 79.005 (3g) “Renewable facility” means an installed and operational electric
16 generating facility, located in ~~or outside~~ this state, that generates ~~renewable energy~~
17 electricity derived from a renewable resource.

18 **SECTION 31.** 196.378 (1) (h) (intro.) and 1. (intro.) of the statutes are
19 renumbered 79.005 (3r) (intro.) and (a) (intro.).

20 **SECTION 32.** 196.378 (1) (h) 1. a. to j. of the statutes are renumbered 79.005 (3r)
21 (a) 1. to 10., and 79.005 (3r) (a) 1. and 7., as renumbered, are amended to read:

22 79.005 (3r) (a) 1. A fuel cell that uses, as determined by the public service
23 commission, a renewable fuel.

24 7. Biomass or biogas.

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1 **SECTION 33.** 196.378 (1) (h) 1m. of the statutes, as affected by 2011 Wisconsin
2 Act 34, is renumbered 79.005 (3r) (b).

3 **SECTION 34.** 196.378 (1) (h) 2. of the statutes is repealed.

4 **SECTION 35.** 196.378 (1) (i) of the statutes is repealed.

5 **SECTION 36.** 196.378 (1) (j) of the statutes is renumbered 79.005 (5).

6 **SECTION 37.** 196.378 (1) (k) of the statutes is repealed.

7 **SECTION 38.** 196.378 (1) (m) of the statutes, as created by 2011 Wisconsin Act
8 34, is repealed.

9 **SECTION 39.** 196.378 (1) (o) and (p) of the statutes are repealed.

10 **SECTION 40.** 196.378 (2) of the statutes, as affected by 2011 Wisconsin Act 34,
11 is repealed.

12 **SECTION 41.** 196.378 (3) of the statutes is repealed.

13 **SECTION 42.** 196.378 (4) of the statutes is repealed.

14 **SECTION 43.** 196.378 (4g) of the statutes is renumbered 196.379, and 196.379
15 (1) (intro.) and (3) (intro.), (a) and (d), as renumbered, are amended to read:

16 **196.379 Wind energy systems. (1)** (intro.) In this ~~subsection~~ section:

17 **(3)** (intro.) In addition to the rules under ~~par. (b)~~ sub. (2), the commission shall,
18 with the advice of the wind siting council, promulgate rules that do all of the
19 following:

20 (a) Specify the information and documentation to be provided in an application
21 for approval to demonstrate that a proposed wind energy system complies with rules
22 promulgated under ~~par. (b)~~ sub. (2).

23 (d) Specify the requirements and procedures for a political subdivision to
24 enforce the restrictions allowed under ~~par. (b)~~ sub. (2).

25 **SECTION 44.** 196.378 (4m) of the statutes is repealed.

