State of Wisconsin
2005 – 2006 LEGISLATURE

LRB–3679/P1
JK:...:...
lmk

PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION

in 9-20-05

D-N

due Friday 9-30-05

LFS: PIS thaw all frozen #s

GenCat

1 AN ACT ...; **relating to:** public utility aid payments, imposing local general
2 property taxes on production plant general structures and substations, and
3 creating a credit against license fees imposed on light, heat, and power
4 companies and electric cooperatives.

Analysis by the Legislative Reference Bureau

Under current law, beginning in 2005, each county and municipality in which a power production plant is located receives a state aid payment based on the net book value of the production plant, for production plants that, generally, began operation before January 1, 2004, or based on the production plant's megawatt capacity, for production plants that began operation after December 31, 2003. Under this bill, beginning in 2007, if in any year the payments to the municipality and county in which a production plant is located would be greater based on the production plant's name–plate capacity than on the depreciated net book value of the production plant, the municipality and county will receive payments based on the production plant's name–plate capacity beginning in that year and in each year thereafter.

Under current law, generally, the property of a light, heat, and power company, including general structures and substations, is exempt from the imposition of local general property taxes, if the company is subject to license fees. Under the bill, beginning with the property tax assessments as of January 1, 2007, a general structure that is owned or leased by a light, heat, and power company is subject to local general property taxes. In addition, beginning with the property tax

assessments as of January 1, 2008, a substation of a light, heat, and power company, not including transmission substation property, is subject to local general property taxes. However, the property of a light, heat, and power company that is located within the municipality that operates the company is not subject to property taxes.

In addition, beginning with license fees that are due in 2008, a light, heat, and power company may claim as a credit against its license fee liability an amount equal to the amount of the property taxes that the company paid in the calendar year on general structures and substations. An electric cooperative may also claim a credit against its license fee liability in an amount equal to the amount of any payments in lieu of property taxes that the cooperative paid in the calendar year, not to exceed the amount of property taxes that the cooperative would have paid had it's property been subject to property taxes. If the credit claimed by a light, heat, and power company or an electric cooperative exceeds the license fee liability of the company or cooperative, the state will not issue a refund check, but the company or cooperative may carry forward any remaining credit to the 15 following years.

Under current law, a person who is issued a certificate of public convenience and necessity for a high–voltage transmission line must pay the Department of Administration an annual impact fee equal to 0.3 percent of the cost of the high–voltage transmission line. Under the bill, the annual impact fee is equal to 0.3 percent of the net book value of the high–voltage transmission line.

Under the bill, if the public service commission receives a mitigation payment agreement before June 10, 2003, and does not determine that the agreement is unreasonable before November 11, 2003, mitigation payments in accordance with the terms of the agreement are recoverable in rates.

Finally, the bill requires the Department of Revenue to convene a study group, no later than December 31, 2005, to assess the feasibility and desirability of imposing local general property taxes on all distribution property of electric cooperatives, municipal utilities, and light, heat, and power companies.

For further information see the ***state and local*** 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 (END)

3679/P1

2005 – 2006 LEGISLATURE

LRBb0370/3
JK:cmh&lmk:jf

LFB:.....Olin – Utility aid payments

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO 2005 ASSEMBLY BILL 100

At the locations indicated, amend the bill as follows:

1. Page 86, line 19: after that line insert:

"**SECTION 93m.** 16.969 (2) (a) of the statutes is amended to read: 0.3 percent

16.969 **(2)** (a) An annual impact fee in an amount equal to ~~0.3%~~ of the ~~cost~~ net book value of the high–voltage transmission line, as determined by the commission under s. 196.491 (3) (gm).

2. Page 610, line 9: after that line insert:

"**SECTION 1258m.** 70.05 (5) (a) 1m. of the statutes is amended to read:

70.05 **(5)** (a) 1m. "Class of property" means residential under s. 70.32 (2) (a) 1.; commercial under s. 70.32 (2) (a) 2.; public utility general structures and substations under s. 70.32 (2) (a) 8.; personal property; or the sum of undeveloped under s. 70.32

(2) (a) 5., agricultural forest under s. 70.32 (2) (a) 5m.; productive forest land under s. 70.32 (2) (a) 6. and other under s. 70.32 (2) (a) 7.".

3. Page 610, line 23: after that line insert:

"**SECTION 1260b.** 70.112 (4) (a) of the statutes is amended to read:

70.112 **(4)** (a) ~~All~~ Except as provided in par. (am), all special property assessed under ss. 76.01 to 76.26 and property of any light, heat, and power company taxed under s. 76.28, car line company, and electric cooperative association that is used and useful in the operation of the business of such company or association. ~~If~~ Except as provided in par. (am) 1., if a general structure for which an exemption is sought under this section is used and useful in part in the operation of any public utility assessed under ss. 76.01 to 76.26 or of the business of any light, heat, and power company taxed under s. 76.28, car line company, or electric cooperative association and in part for nonoperating purposes of the public utility or company or association, that general structure shall be assessed for taxation under this chapter at the percentage of its full market value that fairly measures and represents the extent of its use for nonoperating purposes. Nothing provided in this paragraph shall exclude any real estate or any property which is separately accounted for under s. 196.59 from special assessments for local improvements under s. 66.0705.

SECTION 1260c. 70.112 (4) (am) of the statutes is created to read:

70.112 **(4)** (am) 1. Except as provided in subd. 3., beginning with the property tax assessments as of January 1, 2007, a general structure owned or leased by a light, heat, and power company taxed under s. 76.28 or 76.29 is subject to general property taxes and, beginning with distributions in 2008, shall not be included in the calculation of payments under s. 79.04 (1) and (2).

2. Except as provided in subd. 3., beginning with the property tax assessments as of January 1, 2008, a substation of a light, heat, and power company taxed under s. 76.28 or 76.29 is subject to general property taxes and, beginning with distributions in 2009, shall not be included in the calculation of payments under s. 79.04 (1) and (2), except that this subdivision does not apply to transmission substation property.

3. This paragraph does not apply to the property of a light, heat, and power company that is located within the boundaries of the municipality that operates the company and for which payments are made under s. 66.0811 (2).

4. Property subject to taxation under this paragraph shall be assessed by the department of revenue, as provided under s. 70.995.

SECTION 1260cm. 70.32 (2) (a) 8. of the statutes is created to read:

70.32 **(2)** (a) 8. Public utility general structures and substations.

SECTION 1260cr. 70.32 (2) (c) 2m. of the statutes is created to read:

70.32 **(2)** (c) 2m. "Public utility general structures and substations" means property described under s. 70.112 (4) (am).

SECTION 1260d. 70.995 (15) of the statutes is created to read:

70.995 **(15)** (a) For the property tax assessments as of January 1, 2007, the treatment of manufacturing property under subs. (4) to (14) extends to property described under s. 70.112 (4) (am) 1.

(b) For the property tax assessments as of January 1, 2008, the treatment of manufacturing property under subs. (4) to (14) extends to property described under s. 70.112 (4) (am) 2.".

4. Page 760, line 17: after that line insert:

1 "**SECTION 1473b.** 76.28 (3) (e) of the statutes is created to read:

2 76.28 **(3)** (e) Beginning with the fees due in calendar year 2008, a light, heat,
3 and power company may claim as a credit against the fees imposed under sub. (2) and
4 s. 76.29 (2) an amount equal to the amount of property taxes imposed under ch. 70
5 on general structures and substations that the light, heat, and power company paid
6 in the then current calendar year. If a credit computed under this paragraph is not
7 entirely offset against the license fees otherwise due for the then current calendar
8 year, the unused balance may be carried forward and credited against license fees
9 otherwise due for the following 15 calender years to the extent not offset by the
10 license fees otherwise due in all intervening years between the year in which the
11 property taxes were paid and the year in which the carry–forward credit is claimed.

12 **SECTION 1473d.** 76.28 (9) of the statutes is amended to read:

13 76.28 **(9)** PROPERTY SUBJECT TO LOCAL TAX. ~~The~~ Except as provided in s. 70.112
14 (4) (am) the license fees imposed by this section upon the gross revenues of light, heat
15 and power companies as defined in sub. (1) (e) shall be in lieu of all other taxes on
16 all property used and useful in the operation of the business of such companies in this
17 state, except that the same shall be subject to special assessments for local
18 improvements. If a general structure is used and useful in part in the operation of
19 the business of those companies in this state and in part for nonoperating purposes,
20 the license fees imposed by this section are in place of the percentage of all other taxes
21 on the property that fairly measures and represents the extent of the use and
22 usefulness in the operation of the business of those companies in this state, and the
23 balance is subject to local assessment and taxation, except that the entire general
24 structure is subject to special assessments for local improvements. Property under

s. 76.025 (2) shall not be taxed under this section, but shall be subject to local assessment and taxation.

SECTION 1473e. 76.29 (2) of the statutes is amended to read:

76.29 **(2)** IMPOSITION. ~~There~~ Subject to the credits under ss. 76.28 (3) (e) and 76.48 (3d), there is imposed on every light, heat, and power company and electric cooperative that owns an electric utility plant, an annual license fee to be assessed by the department on or before May 1, 2005, and every May 1 thereafter, ending with the assessment on May 1, 2010, measured by the gross revenues of the preceding tax period in an amount equal to the apportionment factor multiplied by gross revenues multiplied by ~~1.59%~~ 1.59 percent. The fee shall become delinquent if not paid when due and when delinquent shall be subject to interest at the rate of ~~1.5%~~ 1.5 percent per month until paid. Gross revenues earned by a light, heat, and power company after December 31, 2009, are subject to the license fee imposed under s. 76.28 (2). Gross revenues earned by an electric cooperative after December 31, 2009, are subject to the license fee imposed under s. 76.48 (1r).".

5. Page 760, line 22: after that line insert:

"**SECTION 1474m.** 76.48 (3d) of the statutes is created to read:

76.48 **(3d)** (a) Beginning with the fees due in calendar year 2008, an electric cooperative may claim as a credit against the fees imposed under sub. (1r) and s. 76.29 (2) an amount equal to the amount of any payments in lieu of property taxes that the electric cooperative paid in the then current calendar year, not to exceed the amount of property taxes that the cooperative would have paid in that year had the cooperative's property been subject to taxation under ch. 70. If a credit computed under this paragraph is not entirely offset against the license fees otherwise due for

the then current calendar year, the unused balance may be carried forward and credited against license fees otherwise due for the following 15 calender years to the extent not offset by the license fees otherwise due in all intervening years between the year in which the payments were paid and the year in which the carry–forward credit is claimed.

(b) Beginning with distributions in 2008, a general structure owned or leased by an electric cooperative for which a payment in lieu of property taxes is made in the year of the distribution shall not be included in the calculation of payments under s. 79.04 (1) and (2). Beginning with distributions in 2009, a substation of an electric cooperative, other than a transmission substation, for which a payment in lieu of property taxes is made in the year of the distribution shall not be included in the calculation of payments under s. 79.04 (1) and (2)."

6. Page 846, line 8: after that line insert:

"**SECTION 1705b.** 79.04 (1) (intro.) of the statutes is amended to read:

79.04 **(1)** (intro.) Annually, except for production plants that begin operation after December 31, 2003, or begin operation as a repowered production plant after December 31, 2003, <u>and except as provided in sub. (4m) and under s. 70.112 (4) (am),</u> the department of administration, upon certification by the department of revenue, shall distribute to a municipality having within its boundaries a production plant, general structure, or substation, used by a light, heat, or power company assessed under s. 76.28 (2) or 76.29 (2), except property described in s. 66.0813 unless the production plant or substation is owned or operated by a local governmental unit located outside of the municipality, or by an electric cooperative assessed under ss.

76.07 and 76.48, respectively, or by a municipal electric company under s. 66.0825 the amount determined as follows:

SECTION 1705c. 79.04 (1) (b) 1. of the statutes is amended to read:

79.04 **(1)** (b) 1. Beginning with the distribution under this subsection in 1991, and ending with the distribution under this subsection in 2006, the amount determined under par. (a) to value property used by a light, heat or power company in a municipality may not be less than the amount determined to value the property for the distribution to the municipality under this subsection in 1990, subject to subds. 2., 3. and 4.

SECTION 1705d. 79.04 (2) (a) of the statutes is amended to read:

79.04 **(2)** (a) Annually, except for production plants that begin operation after December 31, 2003, or begin operation as a repowered production plant after December 31, 2003, and except as provided in sub. (4m) and under s. 70.112 (4) (am), the department of administration, upon certification by the department of revenue, shall distribute from the shared revenue account or, for the distribution in 2003, from the appropriation under s. 20.835 (1) (t) to any county having within its boundaries a production plant, general structure, or substation, used by a light, heat or power company assessed under s. 76.28 (2) or 76.29 (2), except property described in s. 66.0813 unless the production plant or substation is owned or operated by a local governmental unit that is located outside of the municipality in which the production plant or substation is located, or by an electric cooperative assessed under ss. 76.07 and 76.48, respectively, or by a municipal electric company under s. 66.0825 an amount determined by multiplying by 6 mills in the case of property in a town and by 3 mills in the case of property in a city or village the first $125,000,000 of the amount shown in the account, plus leased property, of each public utility except

qualified wholesale electric companies, as defined in s. 76.28 (1) (gm), on December 31 of the preceding year for "production plant, exclusive of land," "general structures," and "substations," in the case of light, heat and power companies, electric cooperatives or municipal electric companies, for all property within the municipality in accordance with the system of accounts established by the public service commission or rural electrification administration, less depreciation thereon as determined by the department of revenue and less the value of treatment plant and pollution abatement equipment, as defined under s. 70.11 (21) (a), as determined by the department of revenue plus an amount from the shared revenue account or, for the distribution in 2003, from the appropriation under s. 20.835 (1) (t) determined by multiplying by 6 mills in the case of property in a town, and 3 mills in the case of property in a city or village, of the total original cost of production plant, general structures, and substations less depreciation, land and approved waste treatment facilities of each qualified wholesale electric company, as defined in s. 76.28 (1) (gm), as reported to the department of revenue of all property within the municipality. The total of amounts, as depreciated, from the accounts of all public utilities for the same production plant is also limited to not more than $125,000,000. The amount distributable to a county under this subsection and sub. (6) in any year shall not exceed $100 times the population of the county.

SECTION 1705e. 79.04 (2) (am) 1. of the statutes is amended to read:

79.04 **(2)** (am) 1. Beginning with the distribution under this subsection in 1991, <u>and ending with the distribution under this subsection in 2006,</u> the amount determined under par. (a) to value property used by a light, heat or power company in a county may not be less than the amount determined to value the property for the distribution to the county under this subsection in 1990, subject to subds. 2. and 3.

SECTION 1705f. 79.04 (4m) of the statutes is created to read:

79.04 **(4m)** Beginning with distributions in 2007, for production plants described under subs. (1) and (2), if in any year the payments to the municipality and county in which the production plant is located would be greater under subs. (6) and (7) (c) 1. based on the production plant's name–plate capacity than under sub. (1) or (2) based on the depreciated net book value of the production plant, the municipality and county shall receive payments under subs. (6) and (7) (c) 1., rather than under sub. (1) or (2), beginning in that year and in each year thereafter.

SECTION 1705g. 79.04 (6) (a) of the statutes is amended to read:

79.04 **(6)** (a) Annually, beginning in 2005, for production plants that begin operation after December 31, 2003, or begin operation as a repowered production plant after December 31, 2003, <u>except as provided in sub. (4m),</u> the department of administration, upon certification by the department of revenue, shall distribute payments from the public utility account, as determined under par. (b), to each municipality and county in which a production plant is located, if the production plant has a name–plate capacity of at least one megawatt and is used by a light, heat, or power company assessed under s. 76.28 (2) or 76.29 (2), except property described in s. 66.0813, unless the production plant is owned or operated by a local governmental unit located outside of the municipality; by a qualified wholesale electric company, as defined in s. 76.28 (1) (gm); by a wholesale merchant plant, as defined in s. 196.491 (1) (w); by an electric cooperative assessed under ss. 76.07 and 76.48, respectively; or by a municipal electric company under s. 66.0825."

~~**7.** Page 976, line 9: after that line insert:~~

1 "**SECTION 2097m.** 196.20 (7) (c) of the statutes is renumbered 196.20 (7) (c) 1.
2 and amended to read:

3 196.20 **(7)** (c) 1. ~~The~~ Except as provided in subd. 2., the commission shall only
4 approve a mitigation payment agreement that is received by the commission before
5 June 10, 2003, and, if the commission finds the agreement to be reasonable, shall not
6 subsequently modify the agreement.

7 **SECTION 2097n.** 196.20 (7) (c) 2. of the statutes is created to read:

8 196.20 **(7)** (c) 2. If the commission receives a mitigation payment agreement
9 before June 10, 2003, and does not determine that the agreement is unreasonable
10 before November 11, 2003, mitigation payments in accordance with the terms of the
11 agreement shall be recoverable in rates, notwithstanding any subsequent
12 limitations imposed by the commission on the mitigation payments."

13 **8.** Page 977, line 7: after that line insert:

14 "**SECTION 2098m.** 196.491 (3) (gm) of the statutes is amended to read:

15 196.491 **(3)** (gm) The commission may not approve an application filed after
16 October 29, 1999, under this subsection for a certificate of public convenience and
17 necessity for a high–voltage transmission line that is designed for operation at a
18 nominal voltage of 345 kilovolts or more unless the approval includes the condition
19 that the applicant shall pay the fees specified in sub. (3g) (a). If the commission has
20 approved an application under this subsection for a certificate of public convenience
21 and necessity for a high–voltage transmission line that is designed for operation at
22 a nominal voltage of 345 kilovolts or more that was filed after April 1, 1999, and
23 before October 29, 1999, the commission shall require the applicant to pay the fees
24 specified in sub. (3g) (a). For any application subject to this paragraph, the

commission shall determine the ~~cost~~ net book value of the high–voltage transmission line, identify the counties, towns, villages and cities through which the high–voltage transmission line is routed and allocate the amount of investment associated with the high–voltage transmission line to each such county, town, village and city.".

¶ #. Nonstatutory provisions.

9. Page 1089, line 2: after that line insert:

"(1n) DEPARTMENT OF REVENUE STUDY; UTILITY LICENSE FEES. No later than December 31, 2005, the department of revenue shall convene a study group to assess the feasibility and desirability of imposing local general property taxes or their equivalent on all distribution property of electric cooperatives, municipal utilities, and light, heat, and power companies. The study group shall include residents of communities that host public utility property; representatives of electric cooperatives, municipal utilities, and light, heat, and power companies; members of the public who have expertise in the taxation of power plant and transmission line siting; and any other individuals who the department of revenue believes to have expertise related to the study. No later than May 1, 2006, the study group shall report its findings and recommendations to the legislature under section 13.172 (2) of the statutes.".

(END)

Sec #. Initial applicability.

¶ (1) The treatment of section 196.20(7)(c) 2 of the statutes applies retroactively to agreements received before June 10, 2003, and to determinations made before the effective date of this subsection.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–3679/P1dn
JK:...:...
Ink

(date)

Representative Jensen:

Please review this draft carefully to ensure that it is consistent with your intent.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266–2263
E–mail: joseph.kreye@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–3679/P1dn
JK:lmk:rs

September 22, 2005

Representative Jensen:

Please review this draft carefully to ensure that it is consistent with your intent.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266–2263
E–mail: joseph.kreye@legis.state.wi.us

State of Wisconsin
2005 – 2006 LEGISLATURE

LRB–3679/P1
JK:lmk:rs

Stays

PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION

in 10-12-05

today

Regen

AN ACT ~~to~~ ***renumber and amend*** 196.20 (7) (c); ***to amend*** 16.969 (2) (a), 70.05 (5) (a) 1m., 70.112 (4) (a), 76.28 (9), 76.29 (2), 79.04 (1) (intro.), 79.04 (1) (b) 1., 79.04 (2) (a), 79.04 (2) (am) 1., 79.04 (6) (a) and 196.491 (3) (gm); and ***to create*** 70.112 (4) (am), 70.32 (2) (a) 8., 70.32 (2) (c) 2m., 70.995 (15), 76.28 (3) (e), 76.48 (3d), 79.04 (4m) and 196.20 (7) (c) 2. of the statutes; **relating to:** public utility aid payments, imposing local general property taxes on production plant general structures and substations, and creating a credit against license fees imposed on light, heat, and power companies and electric cooperatives.

Analysis by the Legislative Reference Bureau

Under current law, beginning in 2005, each county and municipality in which a power production plant is located receives a state aid payment based on the net book value of the production plant, for production plants that, generally, began operation before January 1, 2004, or based on the production plant's megawatt capacity, for production plants that began operation after December 31, 2003. Under this bill, beginning in 2007, if in any year the payments to the municipality and county in which a production plant is located would be greater based on the production plant's name–plate capacity than on the depreciated net book value of the production plant, the municipality and county will receive payments based on the

production plant's name–plate capacity beginning in that year and in each year thereafter.

Under current law, generally, the property of a light, heat, and power company, including general structures and substations, is exempt from the imposition of local general property taxes, if the company is subject to license fees. Under the bill, beginning with the property tax assessments as of January 1, 2007, a general structure that is owned or leased by a light, heat, and power company is subject to local general property taxes. In addition, beginning with the property tax assessments as of January 1, 2008, a substation of a light, heat, and power company, not including transmission substation property, is subject to local general property taxes. However, the property of a light, heat, and power company that is located within the municipality that operates the company is not subject to property taxes.

In addition, beginning with license fees that are due in 2008, a light, heat, and power company may claim as a credit against its license fee liability an amount equal to the amount of the property taxes that the company paid in the calendar year on general structures and substations. An electric cooperative may also claim a credit against its license fee liability in an amount equal to the amount of any payments in lieu of property taxes that the cooperative paid in the calendar year, not to exceed the amount of property taxes that the cooperative would have paid had its property been subject to property taxes. If the credit claimed by a light, heat, and power company or an electric cooperative exceeds the license fee liability of the company or cooperative, the state will not issue a refund check, but the company or cooperative may carry forward any remaining credit to the 15 following years.

Under current law, a person who is issued a certificate of public convenience and necessity for a high–voltage transmission line must pay the Department of Administration an annual impact fee equal to 0.3 percent of the cost of the high–voltage transmission line. Under the bill, the annual impact fee is equal to 0.3 percent of the net book value of the high–voltage transmission line.

Under the bill, if the Public Service Commission receives a mitigation payment agreement before June 10, 2003, and does not determine that the agreement is unreasonable before November 11, 2003, mitigation payments in accordance with the terms of the agreement are recoverable in rates.

Finally, the bill requires the Department of Revenue to convene a study group, no later than December 31, 2005, to assess the feasibility and desirability of imposing local general property taxes on all distribution property of electric cooperatives, municipal utilities, and light, heat, and power companies.

For further information see the ***state and local*** 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.** 16.969 (2) (a) of the statutes is amended to read:

16.969 **(2)** (a) An annual impact fee in an amount equal to ~~0.3%~~ 0.3 percent of the ~~cost~~ net book value of the high–voltage transmission line, as determined by the commission under s. 196.491 (3) (gm).

SECTION 2. 70.05 (5) (a) 1m. of the statutes is amended to read:

70.05 **(5)** (a) 1m. "Class of property" means residential under s. 70.32 (2) (a) 1.; commercial under s. 70.32 (2) (a) 2.; public utility general structures and substations under s. 70.32 (2) (a) 8.; personal property; or the sum of undeveloped under s. 70.32 (2) (a) 5., agricultural forest under s. 70.32 (2) (a) 5m.; productive forest land under s. 70.32 (2) (a) 6. and other under s. 70.32 (2) (a) 7.

SECTION 3. 70.112 (4) (a) of the statutes is amended to read:

70.112 **(4)** (a) ~~All~~ Except as provided in par. (am), all special property assessed under ss. 76.01 to 76.26 and property of any light, heat, and power company taxed under s. 76.28, car line company, and electric cooperative association that is used and useful in the operation of the business of such company or association. ~~If~~ Except as provided in par. (am) 1., if a general structure for which an exemption is sought under this section is used and useful in part in the operation of any public utility assessed under ss. 76.01 to 76.26 or of the business of any light, heat, and power company taxed under s. 76.28, car line company, or electric cooperative association and in part for nonoperating purposes of the public utility or company or association, that general structure shall be assessed for taxation under this chapter at the percentage of its full market value that fairly measures and represents the extent of its use for nonoperating purposes. Nothing provided in this paragraph shall exclude any real estate or any property which is separately accounted for under s. 196.59 from special assessments for local improvements under s. 66.0705.

SECTION 4. 70.112 (4) (am) of the statutes is created to read:

1 70.112 **(4)** (am) 1. Except as provided in subd. 3., beginning with the property
2 tax assessments as of January 1, 2007, a general structure owned or leased by a light,
3 heat, and power company taxed under s. 76.28 or 76.29 is subject to general property
4 taxes and, beginning with distributions in 2008, shall not be included in the
5 calculation of payments under s. 79.04 (1) and (2).

6 2. Except as provided in subd. 3., beginning with the property tax assessments
7 as of January 1, 2008, a substation of a light, heat, and power company taxed under
8 s. 76.28 or 76.29 is subject to general property taxes and, beginning with
9 distributions in 2009, shall not be included in the calculation of payments under s.
10 79.04 (1) and (2), except that this subdivision does not apply to transmission
11 substation property.

12 3. This paragraph does not apply to the property of a light, heat, and power
13 company that is located within the boundaries of the municipality that operates the
14 company and for which payments are made under s. 66.0811 (2).

15 4. Property subject to taxation under this paragraph shall be assessed by the
16 department of revenue, as provided under s. 70.995.

17 **SECTION 5.** 70.32 (2) (a) 8. of the statutes is created to read:

18 70.32 **(2)** (a) 8. Public utility general structures and substations.

19 **SECTION 6.** 70.32 (2) (c) 2m. of the statutes is created to read:

20 70.32 **(2)** (c) 2m. "Public utility general structures and substations" means
21 property described under s. 70.112 (4) (am).

22 **SECTION 7.** 70.995 (15) of the statutes is created to read:

23 70.995 **(15)** (a) For the property tax assessments as of January 1, 2007, the
24 treatment of manufacturing property under subs. (4) to (14) extends to property
25 described under s. 70.112 (4) (am) 1.

(b) For the property tax assessments as of January 1, 2008, the treatment of manufacturing property under subs. (4) to (14) extends to property described under s. 70.112 (4) (am) 2.

SECTION 8. 76.28 (3) (e) of the statutes is created to read:

76.28 **(3)** (e) Beginning with the fees due in calendar year 2008, a light, heat, and power company may claim as a credit against the fees imposed under sub. (2) and s. 76.29 (2) an amount equal to the amount of property taxes imposed under ch. 70 on general structures and substations that the light, heat, and power company paid in the then current calendar year. If a credit computed under this paragraph is not entirely offset against the license fees otherwise due for the then current calendar year, the unused balance may be carried forward and credited against license fees otherwise due for the following 15 calender years to the extent not offset by the license fees otherwise due in all intervening years between the year in which the property taxes were paid and the year in which the carry–forward credit is claimed.

SECTION 9. 76.28 (9) of the statutes is amended to read:

76.28 **(9)** PROPERTY SUBJECT TO LOCAL TAX. ~~The~~ <u>Except as provided in s. 70.112 (4) (am) the</u> license fees imposed by this section upon the gross revenues of light, heat and power companies as defined in sub. (1) (e) shall be in lieu of all other taxes on all property used and useful in the operation of the business of such companies in this state, except that the same shall be subject to special assessments for local improvements. If a general structure is used and useful in part in the operation of the business of those companies in this state and in part for nonoperating purposes, the license fees imposed by this section are in place of the percentage of all other taxes on the property that fairly measures and represents the extent of the use and usefulness in the operation of the business of those companies in this state, and the

balance is subject to local assessment and taxation, except that the entire general structure is subject to special assessments for local improvements. Property under s. 76.025 (2) shall not be taxed under this section, but shall be subject to local assessment and taxation.

SECTION 10. 76.29 (2) of the statutes is amended to read:

76.29 **(2)** IMPOSITION. ~~There~~ Subject to the credits under ss. 76.28 (3) (e) and 76.48 (3d), there is imposed on every light, heat, and power company and electric cooperative that owns an electric utility plant, an annual license fee to be assessed by the department on or before May 1, 2005, and every May 1 thereafter, ending with the assessment on May 1, 2010, measured by the gross revenues of the preceding tax period in an amount equal to the apportionment factor multiplied by gross revenues multiplied by ~~1.59%~~ 1.59 percent. The fee shall become delinquent if not paid when due and when delinquent shall be subject to interest at the rate of ~~1.5%~~ 1.5 percent per month until paid. Gross revenues earned by a light, heat, and power company after December 31, 2009, are subject to the license fee imposed under s. 76.28 (2). Gross revenues earned by an electric cooperative after December 31, 2009, are subject to the license fee imposed under s. 76.48 (1r).

SECTION 11. 76.48 (3d) of the statutes is created to read:

76.48 **(3d)** (a) Beginning with the fees due in calendar year 2008, an electric cooperative may claim as a credit against the fees imposed under sub. (1r) and s. 76.29 (2) an amount equal to the amount of any payments in lieu of property taxes that the electric cooperative paid in the then current calendar year, not to exceed the amount of property taxes that the cooperative would have paid in that year had the cooperative's property been subject to taxation under ch. 70. If a credit computed under this paragraph is not entirely offset against the license fees otherwise due for

1 the then current calendar year, the unused balance may be carried forward and
2 credited against license fees otherwise due for the following 15 calender years to the
3 extent not offset by the license fees otherwise due in all intervening years between
4 the year in which the payments were paid and the year in which the carry–forward
5 credit is claimed.

6 (b) Beginning with distributions in 2008, a general structure owned or leased
7 by an electric cooperative for which a payment in lieu of property taxes is made in
8 the year of the distribution shall not be included in the calculation of payments under
9 s. 79.04 (1) and (2). Beginning with distributions in 2009, a substation of an electric
10 cooperative, other than a transmission substation, for which a payment in lieu of
11 property taxes is made in the year of the distribution shall not be included in the
12 calculation of payments under s. 79.04 (1) and (2).

13 **SECTION 12.** 79.04 (1) (intro.) of the statutes is amended to read:

14 79.04 **(1)** (intro.) Annually, except for production plants that begin operation
15 after December 31, 2003, or begin operation as a repowered production plant after
16 December 31, 2003, <u>and except as provided in sub. (4m) and under s. 70.112 (4) (am),</u>
17 the department of administration, upon certification by the department of revenue,
18 shall distribute to a municipality having within its boundaries a production plant,
19 general structure, or substation, used by a light, heat, or power company assessed
20 under s. 76.28 (2) or 76.29 (2), except property described in s. 66.0813 unless the
21 production plant or substation is owned or operated by a local governmental unit
22 located outside of the municipality, or by an electric cooperative assessed under ss.
23 76.07 and 76.48, respectively, or by a municipal electric company under s. 66.0825
24 the amount determined as follows:

25 **SECTION 13.** 79.04 (1) (b) 1. of the statutes is amended to read:

79.04 **(1)** (b) 1. Beginning with the distribution under this subsection in 1991, and ending with the distribution under this subsection in 2006, the amount determined under par. (a) to value property used by a light, heat or power company in a municipality may not be less than the amount determined to value the property for the distribution to the municipality under this subsection in 1990, subject to subds. 2., 3. and 4.

SECTION 14. 79.04 (2) (a) of the statutes is amended to read:

79.04 **(2)** (a) Annually, except for production plants that begin operation after December 31, 2003, or begin operation as a repowered production plant after December 31, 2003, and except as provided in sub. (4m) and under s. 70.112 (4) (am), the department of administration, upon certification by the department of revenue, shall distribute from the shared revenue account or, for the distribution in 2003, from the appropriation under s. 20.835 (1) (t) to any county having within its boundaries a production plant, general structure, or substation, used by a light, heat or power company assessed under s. 76.28 (2) or 76.29 (2), except property described in s. 66.0813 unless the production plant or substation is owned or operated by a local governmental unit that is located outside of the municipality in which the production plant or substation is located, or by an electric cooperative assessed under ss. 76.07 and 76.48, respectively, or by a municipal electric company under s. 66.0825 an amount determined by multiplying by 6 mills in the case of property in a town and by 3 mills in the case of property in a city or village the first $125,000,000 of the amount shown in the account, plus leased property, of each public utility except qualified wholesale electric companies, as defined in s. 76.28 (1) (gm), on December 31 of the preceding year for "production plant, exclusive of land," "general structures," and "substations," in the case of light, heat and power companies,

electric cooperatives or municipal electric companies, for all property within the municipality in accordance with the system of accounts established by the public service commission or rural electrification administration, less depreciation thereon as determined by the department of revenue and less the value of treatment plant and pollution abatement equipment, as defined under s. 70.11 (21) (a), as determined by the department of revenue plus an amount from the shared revenue account or, for the distribution in 2003, from the appropriation under s. 20.835 (1) (t) determined by multiplying by 6 mills in the case of property in a town, and 3 mills in the case of property in a city or village, of the total original cost of production plant, general structures, and substations less depreciation, land and approved waste treatment facilities of each qualified wholesale electric company, as defined in s. 76.28 (1) (gm), as reported to the department of revenue of all property within the municipality. The total of amounts, as depreciated, from the accounts of all public utilities for the same production plant is also limited to not more than $125,000,000. The amount distributable to a county under this subsection and sub. (6) in any year shall not exceed $100 times the population of the county.

SECTION 15. 79.04 (2) (am) 1. of the statutes is amended to read:

79.04 **(2)** (am) 1. Beginning with the distribution under this subsection in 1991, <u>and ending with the distribution under this subsection in 2006,</u> the amount determined under par. (a) to value property used by a light, heat or power company in a county may not be less than the amount determined to value the property for the distribution to the county under this subsection in 1990, subject to subds. 2. and 3.

SECTION 16. 79.04 (4m) of the statutes is created to read:

79.04 **(4m)** Beginning with distributions in 2007, for production plants described under subs. (1) and (2), if in any year the payments to the municipality and

county in which the production plant is located would be greater under subs. (6) and (7) (c) 1. based on the production plant's name–plate capacity than under sub. (1) or (2) based on the depreciated net book value of the production plant, the municipality and county shall receive payments under subs. (6) and (7) (c) 1., rather than under sub. (1) or (2), beginning in that year and in each year thereafter.

SECTION 17. 79.04 (6) (a) of the statutes is amended to read:

79.04 **(6)** (a) Annually, beginning in 2005, for production plants that begin operation after December 31, 2003, or begin operation as a repowered production plant after December 31, 2003, <u>except as provided in sub. (4m),</u> the department of administration, upon certification by the department of revenue, shall distribute payments from the public utility account, as determined under par. (b), to each municipality and county in which a production plant is located, if the production plant has a name–plate capacity of at least one megawatt and is used by a light, heat, or power company assessed under s. 76.28 (2) or 76.29 (2), except property described in s. 66.0813, unless the production plant is owned or operated by a local governmental unit located outside of the municipality; by a qualified wholesale electric company, as defined in s. 76.28 (1) (gm); by a wholesale merchant plant, as defined in s. 196.491 (1) (w); by an electric cooperative assessed under ss. 76.07 and 76.48, respectively; or by a municipal electric company under s. 66.0825.

SECTION 18. 196.20 (7) (c) of the statutes is renumbered 196.20 (7) (c) 1. and amended to read:

196.20 **(7)** (c) 1. ~~The~~ <u>Except as provided in subd. 2., the</u> commission shall only approve a mitigation payment agreement that is received by the commission before June 10, 2003, and, if the commission finds the agreement to be reasonable, shall not subsequently modify the agreement.

1 **SECTION 19.** 196.20 (7) (c) 2. of the statutes is created to read:

2 196.20 **(7)** (c) 2. If the commission receives a mitigation payment agreement
3 before June 10, 2003, and does not determine that the agreement is unreasonable
4 before November 11, 2003, mitigation payments in accordance with the terms of the
5 agreement shall be recoverable in rates, notwithstanding any subsequent
6 limitations imposed by the commission on the mitigation payments.

7 **SECTION 20.** 196.491 (3) (gm) of the statutes is amended to read:

8 196.491 **(3)** (gm) The commission may not approve an application filed after
9 October 29, 1999, under this subsection for a certificate of public convenience and
10 necessity for a high–voltage transmission line that is designed for operation at a
11 nominal voltage of 345 kilovolts or more unless the approval includes the condition
12 that the applicant shall pay the fees specified in sub. (3g) (a). If the commission has
13 approved an application under this subsection for a certificate of public convenience
14 and necessity for a high–voltage transmission line that is designed for operation at
15 a nominal voltage of 345 kilovolts or more that was filed after April 1, 1999, and
16 before October 29, 1999, the commission shall require the applicant to pay the fees
17 specified in sub. (3g) (a). For any application subject to this paragraph, the
18 commission shall determine the ~~cost~~ net book value of the high–voltage transmission
19 line, identify the counties, towns, villages and cities through which the high–voltage
20 transmission line is routed and allocate the amount of investment associated with
21 the high–voltage transmission line to each such county, town, village and city.

22 **SECTION 21. Nonstatutory provisions.**

23 (1) DEPARTMENT OF REVENUE STUDY; UTILITY LICENSE FEES. No later than
24 December 31, 2005, the department of revenue shall convene a study group to assess
25 the feasibility and desirability of imposing local general property taxes or their

1 equivalent on all distribution property of electric cooperatives, municipal utilities,
2 and light, heat, and power companies. The study group shall include residents of
3 communities that host public utility property; representatives of electric
4 cooperatives, municipal utilities, and light, heat, and power companies; members of
5 the public who have expertise in the taxation of power plant and transmission line
6 siting; and any other individuals who the department of revenue believes to have
7 expertise related to the study. No later than May 1, 2006, the study group shall
8 report its findings and recommendations to the legislature under section 13.172 (2)
9 of the statutes.

10 **SECTION 22. Initial applicability.**

11 (1) The treatment of section 196.20 (7) (c) 2. of the statutes applies retroactively
12 to agreements received before June 10, 2003, and to determinations made before the
13 effective date of this subsection.

14 **(END)**

Basford, Sarah

From: Reader, Chris
Sent: Wednesday, October 12, 2005 10:59 AM
To: LRB.Legal
Subject: Draft review: LRB 05-3679/1 Topic: Public utility aid payments, imposing property taxes on general structures and substations, creating credits against license fees

It has been requested by <Reader, Chris> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-3679/1 Topic: Public utility aid payments, imposing property taxes on general structures and substations, creating credits against license fees