



2011 ASSEMBLY BILL 734

March 15, 2012 – Introduced by Representatives HULSEY, CLARK and POPE-ROBERTS.
Referred to Committee on Energy and Utilities.

1 **AN ACT** *to repeal* 196.378 (2) (b) 1o. a. and 1o. b.; *to renumber and amend*
2 196.378 (2) (b) 1o. (intro.); *to amend* 196.378 (1) (dm), 196.378 (1) (h) 1m.,
3 196.378 (1) (h) 1m., 196.378 (1) (m), 196.378 (2) (b) 1m. a. and 196.378 (2) (b)
4 1m. b.; and *to repeal and recreate* 196.378 (2) (b) 1m. a. and 196.378 (2) (b)
5 1m. b. of the statutes; **relating to:** treatment of hydroelectric power under the
6 renewable portfolio standard.

Analysis by the Legislative Reference Bureau

Under current law, an electric utility or retail electric cooperative (electric provider) is subject to certain requirements for ensuring 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. These requirements are commonly referred to as the renewable portfolio standard (RPS). “Renewable resource” is defined to include hydroelectric power. For purposes of determining compliance with an RPS for a particular year, current law imposes requirements on the counting of electricity generated from hydroelectric facilities that depend, in part, on the capacity of the facility.

If an electric provider purchases electricity from a hydroelectric facility with a capacity of less than 60 megawatts and provides the electricity to retail customers, current law allows the electric provider to count all of the electricity in determining compliance with an RPS. However, if an electric provider provides electricity to retail

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customers from a hydroelectric facility with such a capacity that is owned or operated by the electric provider, the electric provider may count all of the electricity only if the facility was initially placed in service on or after January 1, 2004. If the facility was initially placed in service prior to that date, an electric provider may count the average output from the facility for the years 2001, 2002, and 2003, subject to certain adjustments specified under current law.

Beginning on December 31, 2015, current law also allows an electric provider to count electricity from a hydroelectric facility with a capacity of 60 megawatts or more, regardless of whether the electric provider owns or operates such a facility. However, electricity from such a facility may be counted only if the facility was initially placed in service on or after December 31, 2010. Also, if the facility is located in Manitoba, Canada, the electricity may be counted only if: 1) the Province of Manitoba informs the Public Service Commission in writing that final licenses have replaced interim licenses for two specified hydroelectric projects located in the province; and 2) those final licenses are in effect under Canadian law.

This bill prohibits an electric provider from counting, for purposes of determining compliance with an RPS, electricity from a hydroelectric facility that is not located within the United States. The bill does not otherwise change the requirements under current law described above, except to eliminate the requirements pertaining to a facility located in Manitoba, Canada.

For further information see the *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.** 196.378 (1) (dm) of the statutes, as created by 2011 Wisconsin Act
2 34, is amended to read:

3 196.378 (1) (dm) “Large hydroelectric facility” means an electric generating
4 facility located within the United States with a capacity of 60 megawatts or more that
5 derives electricity from hydroelectric power.

6 **SECTION 2.** 196.378 (1) (h) 1m. of the statutes is amended to read:

7 196.378 (1) (h) 1m. A resource located within the United States with a capacity
8 of less than 60 megawatts that derives electricity from hydroelectric power.

9 **SECTION 3.** 196.378 (1) (h) 1m. of the statutes, as affected by 2011 Wisconsin
10 Act 34, is amended to read:

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1 196.378 (1) (h) 1m. A resource located within the United States that derives
2 electricity from hydroelectric power.

3 **SECTION 4.** 196.378 (1) (m) of the statutes, as created by 2011 Wisconsin Act 34,
4 is amended to read:

5 196.378 (1) (m) “Small hydroelectric facility” means an electric generating
6 facility located within the United States with a capacity of less than 60 megawatts
7 that derives electricity from hydroelectric power.

8 **SECTION 5.** 196.378 (2) (b) 1m. a. of the statutes is amended to read:

9 196.378 (2) (b) 1m. a. The average of the amounts of hydroelectric power
10 generated by facilities located within the United States owned or operated by the
11 electric provider for 2001, 2002, and 2003, adjusted to reflect the permanent removal
12 from service of any of those facilities and adjusted to reflect any capacity increases
13 from improvements made to those facilities on or after January 1, 2004.

14 **SECTION 6.** 196.378 (2) (b) 1m. a. of the statutes, as affected by 2011 Wisconsin
15 Acts 34 and (this act), is repealed and recreated to read:

16 196.378 (2) (b) 1m. a. The average of the amounts of hydroelectric power
17 generated by small hydroelectric facilities owned or operated by the electric provider
18 for 2001, 2002, and 2003, adjusted to reflect the permanent removal from service of
19 any of those facilities and adjusted to reflect any capacity increases from
20 improvements made to those facilities on or after January 1, 2004.

21 **SECTION 7.** 196.378 (2) (b) 1m. b. of the statutes is amended to read:

22 196.378 (2) (b) 1m. b. The amount of hydroelectric power generated in the
23 reporting year by facilities located within the United States owned or operated by the
24 electric provider that are initially placed in service on or after January 1, 2004.

