

2013 DRAFTING REQUEST

Bill

Received:	11/10/2012	Received By:	mkunkel
Wanted:	As time permits	Same as LRB:	
For:	André Jacque (608) 266-9870	By/Representing:	himself
May Contact:		Drafter:	mkunkel
Subject:	Public Util. - energy	Addl. Drafters:	
		Extra Copies:	EVM

Submit via email: **YES**
 Requester's email: **Rep.Jacque@legis.wi.gov**
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Allow nuclear power to be included for purposes of renewable portfolio standard; change name of standard to renewable and advanced energy portfolio standard

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mkunkel 11/20/2012			_____			
/1	mkunkel 12/7/2012	evinz 11/20/2012	rschluet 11/20/2012	_____	srose 11/20/2012		
/2	mkunkel 12/27/2012	evinz 12/10/2012	jfrantze 12/10/2012	_____	lparisi 12/10/2012		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/3		evinz 12/28/2012	jmurphy 12/28/2012	_____	srose 12/28/2012	srose 2/13/2013	

FE Sent For:

Not needed

<END>

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/2	mkunkel 12/27/2012	evinz 12/10/2012	12/10/2012	_____	lparisi 12/10/2012		

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/2		evinz 12/10/2012	jfrantze 12/10/2012	_____	lparisi 12/10/2012		

13 evv 12/28/12 Jim 12/28/12 Jim + SR 12/28/12

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/1		evinz 11/20/2012	11/20/2012	_____	srose 11/20/2012		

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1/2 ev 12/10/12 1/2 ev 12/10/12
12/10

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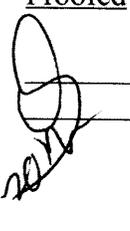
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/?	mkunkel	11/10/12	11/10/12				

FE Sent For:

<END>



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0527/1

MDK...
eev

C-NOTE

2013 BILL

By MONDAY
11-26

SAJ
xrefJ

gen cat

1 AN ACT ; relating to: using nuclear energy to comply with renewable portfolio
2 standards.

Analysis by the Legislative Reference Bureau

Under current law, an electric utility or retail electric cooperative (utility or cooperative) is subject to certain requirements for ensuring that, in a given year, a specified percentage of the electricity that the utility or cooperative sells to retail customers is derived from renewable resources. Such requirements are commonly referred to as "renewable portfolio standards." Current law defines "renewable resource" to include solar and wind power, geothermal technology, biomass, and other specified resources. A utility or cooperative may not count electricity derived from conventional resources in determining compliance with a renewable portfolio standard. Current law defines "conventional resource" to include coal, oil, nuclear power, and, with certain exceptions, natural gas.

This bill allows a utility or cooperative to count electricity derived from nuclear power in determining compliance with a renewable portfolio standard. The bill achieves that result by allowing a utility or cooperative to count "advanced energy" in determining such compliance, and defining "advanced energy" as electricity derived from nuclear power. The bill also makes other changes to the renewable portfolio standards to accomplish that result.

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

BILL

1 **SECTION 1.** 196.378^x (title) of the statutes is amended to read:

2 **196.378** (title) **Renewable resources and advanced energy.**

3 History: 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40, 406; 2011 a. 34, 155.

3 **SECTION 2.** 196.378 (1) (ab) of the statutes is created to read:

4 196.378 (1) (ab) “Advanced energy” means ~~means~~ electricity derived from
5 nuclear power.

6 **SECTION 3.** 196.378[✓] (1) (ac) of the statutes is created to read:

7 196.378 (1) (ac) “Advanced energy supplier” means a person from whom an
8 electric provider purchases advanced energy at wholesale.

9 **SECTION 4.** 196.378[✓] (1) (ad) of the statutes is created to read:

10 196.378 (1) (ad) “Advanced facility” means an installed and operational electric
11 generating facility, located in or outside this state, that generates advanced energy.

12 **SECTION 5.** 196.378^x (1) (ag) of the statutes is amended to read:

13 196.378 (1) (ag) “Baseline renewable percentage” means the average of an
14 energy provider’s renewable energy percentage, as defined in s. 196.378[✓] (1) (fm),
15 2011[✓] stats., for 2001, 2002, and 2003.

16 History: 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40, 406; 2011 a. 34, 155.

16 **SECTION 6.** 196.378 (1) (b) of the statutes is amended to read:

17 196.378 (1) (b) “Conventional resource” means a resource that derives energy
18 from coal, oil, ~~nuclear power~~ or natural gas, except for natural gas used in a fuel cell.

19 History: 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40, 406; 2011 a. 34, 155.

19 **SECTION 7.** 196.378 (1) (fm) (intro.) of the statutes is amended to read:

20 196.378 (1) (fm) (intro.) “Renewable and advanced energy percentage” means,
21 with respect to an electric provider for a particular year, the percentage that results
22 from dividing the sum of the megawatt hours represented by the following by the

BILL

1 total amount of electricity that the electric provider sold to retail customers or
2 members in that year:

3 **History:** 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40, 406; 2011 a. 34, 155.

3 **SECTION 8.** 196.378 (1) (fm) 1. of the statutes is amended to read:

4 196.378 (1) (fm) 1. The ~~renewable~~ resource credits created from the electric
5 provider's total renewable and advanced energy in that year.

6 **History:** 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40, 406; 2011 a. 34, 155.

6 **SECTION 9.** 196.378 (1) (fm) 2. of the statutes is amended to read:

7 196.378 (1) (fm) 2. Any ~~renewable~~ resource credits in addition to the ~~renewable~~
8 resource credits specified in subd. 1. that the electric provider elects to use in that
9 year.

10 **History:** 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40, 406; 2011 a. 34, 155.

10 **SECTION 10.** 196.378 (1) (i) of the statutes is renumbered 196.378 (1) (jm) and

11 amended to read:

12 196.378 (1) (jm) "~~Renewable resource~~ "Resource credit" means a credit
13 calculated in accordance with rules promulgated under sub. (3) (a) 1., 1m., and 2.

14 **History:** 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40, 406; 2011 a. 34, 155.

14 **SECTION 11.** 196.378 (1) (o) (intro.) of the statutes is amended to read:

15 196.378 (1) (o) (intro.) "Total renewable and advanced energy" means the total
16 amount of renewable and advanced energy that the electric provider sold to its
17 customers or members in a year. "Total renewable and advanced energy" does not
18 include any energy that is used to comply with the renewable or advanced energy
19 requirements of another state. "Total renewable and advanced energy" includes all
20 of the following:

21 **History:** 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40, 406; 2011 a. 34, 155.

21 **SECTION 12.** 196.378 (1) (o) 1. of the statutes is amended to read:

22 196.378 (1) (o) 1. Renewable or advanced energy supplied by a renewable or
23 advanced facility owned or operated by an affiliated interest or wholesale supplier

BILL**SECTION 12**

1 of an electric provider and allocated to the electric provider under an agreement
2 between the electric provider and the affiliated interest or wholesale supplier.

3 **History:** 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40, 406; 2011 a. 34, 155.

3 **SECTION 13.** 196.378 (1) (o) 2. of the statutes is amended to read:

4 196.378 (1) (o) 2. Renewable or advanced energy purchased by an affiliated
5 interest or wholesale supplier of an electric provider from a renewable or advanced
6 facility that is not owned or operated by the affiliated interest or wholesale supplier,
7 which renewable or advanced energy is allocated to the electric provider under an
8 agreement between the electric provider and the affiliated interest or wholesale
9 supplier.

10 **History:** 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40, 406; 2011 a. 34, 155.

10 **SECTION 14.** 196.378 (2) (title) of the statutes is amended to read:

11 196.378 (2) (title) RENEWABLE RESOURCE AND ADVANCED ENERGY.

12 **History:** 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40, 406; 2011 a. 34, 155.

12 **SECTION 15.** 196.378 (2) (a) 1. of the statutes is amended to read:

13 196.378 (2) (a) 1. No later than June 1, 2016, the commission shall prepare a
14 report stating whether, by December 31, 2015, the state has met a goal of 10 percent
15 of all electric energy consumed in the state being renewable and advanced energy.
16 If the goal has not been achieved, the report shall indicate why the goal was not
17 achieved and how it may be achieved, and the commission shall prepare similar
18 reports biennially thereafter until the goal is achieved. The commission shall submit
19 reports under this subdivision to the governor and chief clerk of each house of the
20 legislature for distribution to the legislature under s. 13.172 (2).

21 **History:** 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40, 406; 2011 a. 34, 155.

21 **SECTION 16.** 196.378 (2) (a) 2. a. of the statutes is amended to read:

BILL

1 196.378 (2) (a) 2. a. For the years 2006, 2007, 2008, and 2009, each electric
2 provider may not decrease its renewable and advanced energy percentage below the
3 electric provider's baseline renewable percentage.

History: 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009~~a.~~ 40, 406; 2011 a. 34, 155.

4 **SECTION 17.** 196.378 (2) (a) 2. b. of the statutes is amended to read:

5 196.378 (2) (a) 2. b. For the year 2010, each electric provider shall increase its
6 renewable and advanced energy percentage so that it is at least 2 percentage points
7 above the electric provider's baseline renewable percentage.

History: 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009~~a.~~ 40, 406; 2011 a. 34, 155.

8 **SECTION 18.** 196.378 (2) (a) 2. c. of the statutes is amended to read:

9 196.378 (2) (a) 2. c. For the years 2011, 2012, 2013, and 2014, each electric
10 provider may not decrease its renewable and advanced energy percentage below the
11 electric provider's renewable and advanced energy percentage required under subd.
12 2. b.

History: 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009~~a.~~ 40, 406; 2011 a. 34, 155.

13 **SECTION 19.** 196.378 (2) (a) 2. d. of the statutes is amended to read:

14 196.378 (2) (a) 2. d. For the year 2015, each electric provider shall increase its
15 renewable and advanced energy percentage so that it is at least 6 percentage points
16 above the electric provider's baseline renewable percentage.

History: 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009~~a.~~ 40, 406; 2011 a. 34, 155.

17 **SECTION 20.** 196.378 (2) (a) 2. e. of the statutes is amended to read:

18 196.378 (2) (a) 2. e. For each year after 2015, each electric provider may not
19 decrease its renewable and advanced energy percentage below the electric provider's
20 renewable and advanced energy percentage required under subd. 2. d.

History: 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009~~a.~~ 40, 406; 2011 a. 34, 155.

21 **SECTION 21.** 196.378 (2) (b) 5. of the statutes is amended to read:

22 196.378 (2) (b) 5. An electric provider that purchases renewable or advanced
23 energy from a renewable or advanced energy supplier may use an allocated share of

BILL**SECTION 21**

1 the renewable or advanced energy sold by the renewable or advanced energy supplier
2 to comply with a requirement under par. (a) 2. or to create a credit under sub. (3) (a),
3 provided that the cost of the renewable or advanced energy is included in the price
4 the electric provider paid the renewable or advanced energy supplier.

History: 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 34, 406; 2011 a. 34, 155.

5 **SECTION 22.** 196.378 (2) (bm) of the statutes is amended to read:

6 196.378 (2) (bm) Each electric provider shall annually retire renewable
7 resource credits sufficient to satisfy the electric provider's renewable and advanced
8 energy percentage required under par. (a) 2.

History: 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40, 406; 2011 a. 34, 155.

9 **SECTION 23.** 196.378 (2) (c) of the statutes is amended to read:

10 196.378 (2) (c) No later than April 15 annually, or another annual date specified
11 by the commission by rule, an electric provider shall submit a report to the
12 commission that identifies the electric provider's renewable and advanced energy
13 percentage for the previous year and describes the electric provider's compliance
14 with par. (a) 2. and the electric provider's implementation plans for future
15 compliance. Reports under this paragraph may include certifications from
16 renewable and advanced energy suppliers regarding the sources and amounts of
17 renewable and advanced energy supplied to the electric provider. The commission
18 may specify the documentation that is required to be included with reports
19 submitted under this paragraph. The commission may require that electric
20 providers submit the reports in a proceeding, initiated by the commission under this
21 section relating to the implementation of s. 1.12, or in a proceeding for preparing a
22 strategic energy assessment under s. 196.491 (2). No later than 90 days after the

BILL

1 commission's receipt of an electric provider's report, the commission shall inform the
2 electric provider whether the electric provider is in compliance with par. (a) 2.

3 **History:** 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40, 406; 2011 a. 34, 155.

SECTION 24. 196.378 (2) (d) (intro.) of the statutes is amended to read:

4 196.378 (2) (d) (intro.) The commission shall allow an electric utility to recover
5 from ratepayers the cost of providing total renewable and advanced energy to its
6 retail customers in amounts that equal or exceed the percentages specified in par. (a).
7 Subject to any approval of the commission that is necessary, an electric utility may
8 recover costs under this paragraph by any of the following methods:

9 **History:** 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40, 406; 2011 a. 34, 155.

SECTION 25. 196.378 (2) (d) 2. of the statutes is amended to read:

10 196.378 (2) (d) 2. Establishing alternative price structures, including price
11 structures under which customers pay a premium for renewable or advanced energy.

12 **History:** 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40, 406; 2011 a. 34, 155.

SECTION 26. 196.378 (2) (e) 2. of the statutes is amended to read:

13 196.378 (2) (e) 2. Notwithstanding reasonable efforts to protect against
14 unreasonable increases in rates of the applicant's ratepayers or members,
15 compliance with the deadline will result in unreasonable increases in rates of the
16 applicant's ratepayers or members, including increases that are due to the
17 discontinuation of federal renewable or advanced energy tax credits or other federal
18 policies intended to reduce the acquisition costs of renewable or advanced energy.

19 **History:** 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40, 406; 2011 a. 34, 155.

SECTION 27. 196.378 (2) (e) 3. of the statutes is amended to read:

20 196.378 (2) (e) 3. Notwithstanding reasonable efforts to obtain required
21 approvals, the applicant cannot comply with the deadline because the applicant or
22 a supplier has experienced or will experience delays in receiving required siting or
23 permitting approvals for renewable or advanced energy projects.

History: 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40, 406; 2011 a. 34, 155.

BILL

1 196.378 (3) (a) 1m. The commission shall promulgate rules that allow an
2 electric provider or customer or member of an electric provider to create a ~~renewable~~
3 resource credit based on use in a year by the electric provider, customer, or member
4 of solar energy, including solar water heating and direct solar applications such as
5 solar light pipe technology; wind energy; hydroelectric energy; geothermal energy;
6 biomass; biogas; synthetic gas created by the plasma gasification of waste; densified
7 fuel pellets described in sub. (1) (h) 1. i.; or fuel described in sub. (1) (h) 1. j.; but only
8 if the use displaces the electric provider's, customer's, or member's use of electricity
9 that is derived from conventional resources, and only if the displacement is verifiable
10 and measurable, as determined by the commission. The rules shall allow an electric
11 provider, customer, or member to create a ~~renewable~~ resource credit based on 100
12 percent of the amount of the displacement. The rules may not allow an electric
13 provider to create ~~renewable~~ resource credits under this subdivision based on
14 renewable or advanced energy upon which ~~renewable~~ resource credits are created
15 under subd. 1. The rules may also not allow an electric provider to create ~~renewable~~
16 resource credits under this subdivision based on hydroelectric energy that is not
17 eligible for creating ~~renewable~~ resource credits under subd. 1.

History: 1999 a. 9; 2001 a. 30; 2005 a. 141; 2007 a. 40, 406; 2011 a. 34, 155.

18 **SECTION 32.** 196.378 (3) (a) 2. of the statutes is amended to read:

19 196.378 (3) (a) 2. The commission shall promulgate rules for calculating the
20 amount of a ~~renewable~~ resource credit that is bankable from a renewable or
21 advanced facility placed into service before January 1, 2004. The amount of a
22 bankable ~~renewable~~ resource credit created on or after January 1, 2004, from such
23 a renewable or advanced facility, except a renewable or advanced facility owned by
24 a retail customer of an electric provider, is limited to the incremental increase in

BILL**SECTION 32**

1 output from the renewable or advanced facility that is due to capacity improvements
2 made on or after January 1, 2004.

3 **History:** 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40, 406; 2011 a. 34, 155.

3 **SECTION 33.** 196.378 (3) (c) of the statutes is amended to read:

4 196.378 (3) (c) A renewable resource credit created under s. 196.378 (3) (a),
5 2003 stats., may not be used after December 31, 2011. A ~~renewable~~ resource credit
6 created under par. (a) 1., 1m., or 2. may not be used after the 4th year after the year
7 in which the credit is created, except the commission may promulgate rules
8 specifying a different period of time if the commission determines that such period
9 is necessary for consistency with any regional renewable or advanced resource credit
10 trading program that applies in this state.

11 **History:** 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40, 406; 2011 a. 34, 155.

11 **SECTION 34.** 196.378 (4m) (title) of the statutes is amended to read:

12 196.378 (4m) (title) ADDITIONAL RENEWABLE RESOURCES REQUIREMENTS.

13 **History:** 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40, 406; 2011 a. 34, 155.

13 **SECTION 35.** 196.378 (4m) (a) of the statutes is amended to read:

14 196.378 (4m) (a) The commission may not impose on an electric provider any
15 requirement that increases the electric provider's renewable and advanced energy
16 percentage beyond that required under sub. (2) (a) 2. If an electric provider is in
17 compliance with the requirements of sub. (2) (a) 2., the commission may not require
18 the electric provider to undertake, administer, or fund any other renewable or
19 advanced energy program. This paragraph does not limit the authority of the
20 commission to enforce an electric provider's obligations under s. 196.374.

21 **History:** 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40, 406; 2011 a. 34, 155.

21 **SECTION 36.** 196.378 (4m) (b) of the statutes is amended to read:

22 196.378 (4m) (b) An electric utility may, with commission approval, administer
23 or fund a program that increases the electric utility's renewable and advanced

BILL

1 energy percentage beyond that required under sub. (2) (a) 2. The commission may
2 not order an electric utility to administer or fund a program under this paragraph.

3 History: 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40, 406; 2011 a. 34, 155.

SECTION 37. 196.378 (4r) of the statutes is amended to read:

4 196.378 (4r) REPORTS. No later than July 1 of each even-numbered year, the
5 commission shall submit a report to the governor and chief clerk of each house of the
6 legislature for distribution to the legislature under s. 13.172 (2) that evaluates the
7 impact of the requirements of this section on the rates and revenue requirements of
8 electric providers and compares that impact with the impact that would have
9 occurred if renewable and advanced energy practices of electric providers were
10 subject to market forces in the absence of the requirements of this section.

11 History: 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40, 406; 2011 a. 34, 155.

SECTION 38. 196.378 (5) (intro.) of the statutes is amended to read:

12 196.378 (5) PENALTY. (intro.) Any person who violates sub. (2) or any renewable
13 or advanced energy supplier who provides an electric provider with a false or
14 misleading certification regarding the sources or amounts of renewable or advanced
15 energy supplied at wholesale to the electric provider shall forfeit not less than \$5,000
16 nor more than \$500,000. Forfeitures under this subsection shall be enforced by
17 action on behalf of the state by the attorney general. A court imposing a forfeiture
18 under this subsection shall consider all of the following in determining the amount
19 of the forfeiture:

20 History: 1999 a. 9; 2001 a. 30; 2005 a. 141; 2009 a. 40, 406; 2011 a. 34, 155.

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0527/1dn

MDK.....

Leev

date

Rep. Jacque:

Please review this bill to make sure it achieves your intent.

Also note that you wanted the bill to allow nuclear energy to be sold anywhere in the state, in addition to within certain "zones" that may be specified in power purchase agreements. However, I did not include language accomplishing that result because I am not certain how power purchase agreements specify such zones. Please provide me with more information on this topic so that I can accomplish your intent.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0527/1dn
MDK:eev:rs

November 20, 2012

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Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0527/2dn

MDK:f:....

eev

date

Rep. Jacques:

This version is identical to the previous version except that it incorporates 2011 AB 146, which eliminates the 4-year restriction on the use of credits.

SP

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0527/2ins
MDK:.....

1

INSERT 2A:

A utility or cooperative creates renewable resource credits based on the amount of electricity derived from renewable resources that the utility or cooperative sells to its customers or members in a year. Current law allows a utility or cooperative to use the credits to comply with a renewable portfolio standard for a particular year, bank the credits for use in a subsequent year, or sell the credits to another utility or cooperative.

2

INSERT 2B:

to create credits based on the amount of electricity derived from nuclear power that the utility or cooperative sells to its customer^s or members in year^a, in addition to the amount of electricity derived from renewable resources.

The bill also eliminates a restriction on the use of credits to comply with renewable portfolio standards. Under current law, a credit may not be used after the fourth year in which the credit is created, unless the Public Service Commission promulgates rules specifying a different time period. This bill eliminates that restriction.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0527/10
MDK:eev: [initials]

NOTE
2013 BILL

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1 AN ACT *to renumber and amend* 196.378 (1) (i); *to amend* 196.378 (title),
2 196.378 (1) (ag), 196.378 (1) (b), 196.378 (1) (fm) (intro.), 196.378 (1) (fm) 1.,
3 196.378 (1) (fm) 2., 196.378 (1) (o) (intro.), 196.378 (1) (o) 1., 196.378 (1) (o) 2.,
4 196.378 (2) (title), 196.378 (2) (a) 1., 196.378 (2) (a) 2. a., 196.378 (2) (a) 2. b.,
5 196.378 (2) (a) 2. c., 196.378 (2) (a) 2. d., 196.378 (2) (a) 2. e., 196.378 (2) (b) 5.,
6 196.378 (2) (bm), 196.378 (2) (c), 196.378 (2) (d) (intro.), 196.378 (2) (d) 2.,
7 196.378 (2) (e) 2., 196.378 (2) (e) 3., 196.378 (2) (e) 4., 196.378 (3) (title), 196.378
8 (3) (a) 1., 196.378 (3) (a) 1m., 196.378 (3) (a) 2., 196.378 (3) (c), 196.378 (4m)
9 (title), 196.378 (4m) (a), 196.378 (4m) (b), 196.378 (4r) and 196.378 (5) (intro.);
10 and *to create* 196.378 (1) (ab), 196.378 (1) (ac) and 196.378 (1) (ad) of the
11 statutes; *relating to: the use of* ~~the use of~~ nuclear energy to comply with renewable portfolio
12 standards.

and time period for using credits to comply with

Analysis by the Legislative Reference Bureau

Under current law, an electric utility or retail electric cooperative (utility or cooperative) is subject to certain requirements for ensuring that, in a given year, a

such standards

BILL

2-

which current law defines

INSERT 2A

create a credit based on

specified percentage of the electricity that the utility or cooperative sells to retail customers is derived from renewable resources. Such requirements are commonly referred to as "renewable portfolio standards." Current law defines "renewable resource" to include solar and wind power, geothermal technology, biomass, and other specified resources. A utility or cooperative may not ~~count~~ electricity derived from conventional resources ~~in determining compliance with a renewable portfolio standard.~~ Current law defines "conventional resource" to include coal, oil, nuclear power, and, with certain exceptions, natural gas. *USE*

to comply
This bill allows a utility or cooperative to ~~count~~ electricity derived from nuclear power ~~in determining compliance~~ with a renewable portfolio standard. The bill achieves that result by allowing a utility or cooperative to count "advanced energy" in ~~determining such compliance, and defining "advanced energy" as electricity derived from nuclear power.~~ The bill also makes other changes to the renewable portfolio standards to accomplish that result. *INSERT 2B*

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

1 SECTION 1. 196.378 (title) of the statutes is amended to read:

2 **196.378 (title) Renewable resources and advanced energy.**

3 SECTION 2. 196.378 (1) (ab) of the statutes is created to read:

4 196.378 (1) (ab) "Advanced energy" means electricity derived from nuclear
5 power.

6 SECTION 3. 196.378 (1) (ac) of the statutes is created to read:

7 196.378 (1) (ac) "Advanced energy supplier" means a person from whom an
8 electric provider purchases advanced energy at wholesale.

9 SECTION 4. 196.378 (1) (ad) of the statutes is created to read:

10 196.378 (1) (ad) "Advanced facility" means an installed and operational electric
11 generating facility, located in or outside this state, that generates advanced energy.

12 SECTION 5. 196.378 (1) (ag) of the statutes is amended to read:

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1 196.378 (1) (ag) “Baseline renewable percentage” means the average of an
2 energy provider’s renewable energy percentage, as defined in s. 196.378 (1) (fm),
3 2011 stats., for 2001, 2002, and 2003.

4 **SECTION 6.** 196.378 (1) (b) of the statutes is amended to read:

5 196.378 (1) (b) “Conventional resource” means a resource that derives energy
6 from coal, oil, ~~nuclear power~~ or natural gas, except for natural gas used in a fuel cell.

7 **SECTION 7.** 196.378 (1) (fm) (intro.) of the statutes is amended to read:

8 196.378 (1) (fm) (intro.) “Renewable and advanced energy percentage” means,
9 with respect to an electric provider for a particular year, the percentage that results
10 from dividing the sum of the megawatt hours represented by the following by the
11 total amount of electricity that the electric provider sold to retail customers or
12 members in that year:

13 **SECTION 8.** 196.378 (1) (fm) 1. of the statutes is amended to read:

14 196.378 (1) (fm) 1. The ~~renewable~~ resource credits created from the electric
15 provider’s total renewable and advanced energy in that year.

16 **SECTION 9.** 196.378 (1) (fm) 2. of the statutes is amended to read:

17 196.378 (1) (fm) 2. Any ~~renewable~~ resource credits in addition to the ~~renewable~~
18 resource credits specified in subd. 1. that the electric provider elects to use in that
19 year.

20 **SECTION 10.** 196.378 (1) (i) of the statutes is renumbered 196.378 (1) (jm) and
21 amended to read:

22 196.378 (1) (jm) “~~Renewable resource~~ Resource credit” means a credit
23 calculated in accordance with rules promulgated under sub. (3) (a) 1., 1m., and 2.

24 **SECTION 11.** 196.378 (1) (o) (intro.) of the statutes is amended to read:

BILL**SECTION 11**

1 196.378 (1) (o) (intro.) “Total renewable and advanced energy” means the total
2 amount of renewable and advanced energy that the electric provider sold to its
3 customers or members in a year. “Total renewable and advanced energy” does not
4 include any energy that is used to comply with the renewable or advanced energy
5 requirements of another state. “Total renewable and advanced energy” includes all
6 of the following:

7 **SECTION 12.** 196.378 (1) (o) 1. of the statutes is amended to read:

8 196.378 (1) (o) 1. Renewable or advanced energy supplied by a renewable or
9 advanced facility owned or operated by an affiliated interest or wholesale supplier
10 of an electric provider and allocated to the electric provider under an agreement
11 between the electric provider and the affiliated interest or wholesale supplier.

12 **SECTION 13.** 196.378 (1) (o) 2. of the statutes is amended to read:

13 196.378 (1) (o) 2. Renewable or advanced energy purchased by an affiliated
14 interest or wholesale supplier of an electric provider from a renewable or advanced
15 facility that is not owned or operated by the affiliated interest or wholesale supplier,
16 which renewable or advanced energy is allocated to the electric provider under an
17 agreement between the electric provider and the affiliated interest or wholesale
18 supplier.

19 **SECTION 14.** 196.378 (2) (title) of the statutes is amended to read:

20 196.378 (2) (title) RENEWABLE RESOURCE AND ADVANCED ENERGY.

21 **SECTION 15.** 196.378 (2) (a) 1. of the statutes is amended to read:

22 196.378 (2) (a) 1. No later than June 1, 2016, the commission shall prepare a
23 report stating whether, by December 31, 2015, the state has met a goal of 10 percent
24 of all electric energy consumed in the state being renewable and advanced energy.
25 If the goal has not been achieved, the report shall indicate why the goal was not

BILL

1 achieved and how it may be achieved, and the commission shall prepare similar
2 reports biennially thereafter until the goal is achieved. The commission shall submit
3 reports under this subdivision to the governor and chief clerk of each house of the
4 legislature for distribution to the legislature under s. 13.172 (2).

5 **SECTION 16.** 196.378 (2) (a) 2. a. of the statutes is amended to read:

6 196.378 (2) (a) 2. a. For the years 2006, 2007, 2008, and 2009, each electric
7 provider may not decrease its renewable and advanced energy percentage below the
8 electric provider's baseline renewable percentage.

9 **SECTION 17.** 196.378 (2) (a) 2. b. of the statutes is amended to read:

10 196.378 (2) (a) 2. b. For the year 2010, each electric provider shall increase its
11 renewable and advanced energy percentage so that it is at least 2 percentage points
12 above the electric provider's baseline renewable percentage.

13 **SECTION 18.** 196.378 (2) (a) 2. c. of the statutes is amended to read:

14 196.378 (2) (a) 2. c. For the years 2011, 2012, 2013, and 2014, each electric
15 provider may not decrease its renewable and advanced energy percentage below the
16 electric provider's renewable and advanced energy percentage required under subd.
17 2. b.

18 **SECTION 19.** 196.378 (2) (a) 2. d. of the statutes is amended to read:

19 196.378 (2) (a) 2. d. For the year 2015, each electric provider shall increase its
20 renewable and advanced energy percentage so that it is at least 6 percentage points
21 above the electric provider's baseline renewable percentage.

22 **SECTION 20.** 196.378 (2) (a) 2. e. of the statutes is amended to read:

23 196.378 (2) (a) 2. e. For each year after 2015, each electric provider may not
24 decrease its renewable and advanced energy percentage below the electric provider's
25 renewable and advanced energy percentage required under subd. 2. d.

BILL**SECTION 21**

1 **SECTION 21.** 196.378 (2) (b) 5. of the statutes is amended to read:

2 196.378 (2) (b) 5. An electric provider that purchases renewable or advanced
3 energy from a renewable or advanced energy supplier may use an allocated share of
4 the renewable or advanced energy sold by the renewable or advanced energy supplier
5 to comply with a requirement under par. (a) 2. or to create a credit under sub. (3) (a),
6 provided that the cost of the renewable or advanced energy is included in the price
7 the electric provider paid the renewable or advanced energy supplier.

8 **SECTION 22.** 196.378 (2) (bm) of the statutes is amended to read:

9 196.378 (2) (bm) Each electric provider shall annually retire renewable
10 resource credits sufficient to satisfy the electric provider's renewable and advanced
11 energy percentage required under par. (a) 2.

12 **SECTION 23.** 196.378 (2) (c) of the statutes is amended to read:

13 196.378 (2) (c) No later than April 15 annually, or another annual date specified
14 by the commission by rule, an electric provider shall submit a report to the
15 commission that identifies the electric provider's renewable and advanced energy
16 percentage for the previous year and describes the electric provider's compliance
17 with par. (a) 2. and the electric provider's implementation plans for future
18 compliance. Reports under this paragraph may include certifications from
19 renewable and advanced energy suppliers regarding the sources and amounts of
20 renewable and advanced energy supplied to the electric provider. The commission
21 may specify the documentation that is required to be included with reports
22 submitted under this paragraph. The commission may require that electric
23 providers submit the reports in a proceeding, initiated by the commission under this
24 section relating to the implementation of s. 1.12, or in a proceeding for preparing a
25 strategic energy assessment under s. 196.491 (2). No later than 90 days after the

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1 commission's receipt of an electric provider's report, the commission shall inform the
2 electric provider whether the electric provider is in compliance with par. (a) 2.

3 **SECTION 24.** 196.378 (2) (d) (intro.) of the statutes is amended to read:

4 196.378 (2) (d) (intro.) The commission shall allow an electric utility to recover
5 from ratepayers the cost of providing total renewable and advanced energy to its
6 retail customers in amounts that equal or exceed the percentages specified in par. (a).
7 Subject to any approval of the commission that is necessary, an electric utility may
8 recover costs under this paragraph by any of the following methods:

9 **SECTION 25.** 196.378 (2) (d) 2. of the statutes is amended to read:

10 196.378 (2) (d) 2. Establishing alternative price structures, including price
11 structures under which customers pay a premium for renewable or advanced energy.

12 **SECTION 26.** 196.378 (2) (e) 2. of the statutes is amended to read:

13 196.378 (2) (e) 2. Notwithstanding reasonable efforts to protect against
14 unreasonable increases in rates of the applicant's ratepayers or members,
15 compliance with the deadline will result in unreasonable increases in rates of the
16 applicant's ratepayers or members, including increases that are due to the
17 discontinuation of federal renewable or advanced energy tax credits or other federal
18 policies intended to reduce the acquisition costs of renewable or advanced energy.

19 **SECTION 27.** 196.378 (2) (e) 3. of the statutes is amended to read:

20 196.378 (2) (e) 3. Notwithstanding reasonable efforts to obtain required
21 approvals, the applicant cannot comply with the deadline because the applicant or
22 a supplier has experienced or will experience delays in receiving required siting or
23 permitting approvals for renewable or advanced energy projects.

24 **SECTION 28.** 196.378 (2) (e) 4. of the statutes is amended to read:

BILL**SECTION 28**

1 196.378 (2) (e) 4. Notwithstanding reasonable efforts to secure transmission
2 service, the applicant cannot comply with the deadline because the applicant faces
3 transmission constraints that interfere with the economic and reliable delivery of
4 renewable or advanced energy to the applicant's system.

5 **SECTION 29.** 196.378 (3) (title) of the statutes is amended to read:

6 196.378 (3) (title) ~~RENEWABLE RESOURCE~~ RESOURCE CREDITS.

7 **SECTION 30.** 196.378 (3) (a) 1. of the statutes is amended to read:

8 196.378 (3) (a) 1. Each megawatt hour of an electric provider's total renewable
9 and advanced energy creates one ~~renewable~~ resource credit for the electric provider.
10 Subject to subd. 2., an electric provider that exceeds its renewable and advanced
11 energy percentage required under sub. (2) (a) 2. may, in the applicable year, bank any
12 excess ~~renewable~~ resource credits or any portion of any excess ~~renewable~~ resource
13 credit for use in a subsequent year or sell any excess ~~renewable~~ resource credits or
14 any portion of any excess ~~renewable~~ resource credit to any other electric provider at
15 any negotiated price. An electric provider that creates or purchases a ~~renewable~~
16 resource credit or portion may use the credit or portion, as provided under par. (c),
17 to establish compliance with sub. (2) (a) 2. The commission shall promulgate rules
18 that establish requirements for the creation and use of a ~~renewable~~ resource credit
19 created on or after January 1, 2004, including calculating the amount of a ~~renewable~~
20 resource credit, and for the tracking of ~~renewable~~ resource credits by a regional
21 ~~renewable~~ resource credit tracking system. The rules shall specify the manner for
22 aggregating or allocating credits under this subdivision or sub. (2) (b) 4. or 5.

23 **SECTION 31.** 196.378 (3) (a) 1m. of the statutes is amended to read:

24 196.378 (3) (a) 1m. The commission shall promulgate rules that allow an
25 electric provider or customer or member of an electric provider to create a ~~renewable~~

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1 resource credit based on use in a year by the electric provider, customer, or member
2 of solar energy, including solar water heating and direct solar applications such as
3 solar light pipe technology; wind energy; hydroelectric energy; geothermal energy;
4 biomass; biogas; synthetic gas created by the plasma gasification of waste; densified
5 fuel pellets described in sub. (1) (h) 1. i.; or fuel described in sub. (1) (h) 1. j.; but only
6 if the use displaces the electric provider's, customer's, or member's use of electricity
7 that is derived from conventional resources, and only if the displacement is verifiable
8 and measurable, as determined by the commission. The rules shall allow an electric
9 provider, customer, or member to create a ~~renewable~~ resource credit based on 100
10 percent of the amount of the displacement. The rules may not allow an electric
11 provider to create ~~renewable~~ resource credits under this subdivision based on
12 renewable or advanced energy upon which ~~renewable~~ resource credits are created
13 under subd. 1. The rules may also not allow an electric provider to create ~~renewable~~
14 resource credits under this subdivision based on hydroelectric energy that is not
15 eligible for creating ~~renewable~~ resource credits under subd. 1.

16 **SECTION 32.** 196.378 (3) (a) 2. of the statutes is amended to read:

17 196.378 (3) (a) 2. The commission shall promulgate rules for calculating the
18 amount of a ~~renewable~~ resource credit that is bankable from a renewable or
19 advanced facility placed into service before January 1, 2004. The amount of a
20 bankable ~~renewable~~ resource credit created on or after January 1, 2004, from such
21 a renewable or advanced facility, except a renewable or advanced facility owned by
22 a retail customer of an electric provider, is limited to the incremental increase in
23 output from the renewable or advanced facility that is due to capacity improvements
24 made on or after January 1, 2004.

25 **SECTION 33.** 196.378 (3) (c) of the statutes is amended to read:

BILL

1 legislature for distribution to the legislature under s. 13.172 (2) that evaluates the
2 impact of the requirements of this section on the rates and revenue requirements of
3 electric providers and compares that impact with the impact that would have
4 occurred if renewable and advanced energy practices of electric providers were
5 subject to market forces in the absence of the requirements of this section.

6 **SECTION 38.** 196.378 (5) (intro.) of the statutes is amended to read:

7 196.378 (5) PENALTY. (intro.) Any person who violates sub. (2) or any renewable
8 or advanced energy supplier who provides an electric provider with a false or
9 misleading certification regarding the sources or amounts of renewable or advanced
10 energy supplied at wholesale to the electric provider shall forfeit not less than \$5,000
11 nor more than \$500,000. Forfeitures under this subsection shall be enforced by
12 action on behalf of the state by the attorney general. A court imposing a forfeiture
13 under this subsection shall consider all of the following in determining the amount
14 of the forfeiture:

15 (END)

cl-note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0527/2dn
MDK:eev:jf

December 10, 2012

Rep. Jacques:

This version is identical to the previous version except that it incorporates 2011 AB 146, which eliminates the four-year restriction on the use of credits.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

Kunkel, Mark

From: andre.jacque@att.net
Sent: Friday, December 21, 2012 3:16 AM
To: Kunkel, Mark
Subject: Renewable & Advanced Energy Portfolio Standard bill

Hi Mark,

Could you please make the following modifications to LRB 0527:

1. Restrict the nuclear power that qualifies for credit under the RAE portfolio standard to nuclear power produced within WI.
2. Restrict the nuclear power that qualifies for credit under the RAE portfolio standard to the potential amount of electricity a facility can generate that is not already subject to a power purchase agreement (PPA) at the date of enactment (for example, the Point Beach nuclear plant already has 90% of the energy it is licensed by the NRC to generate over the next several years included within a PPA with WE Energies)

Thanks!

André



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0527/2-0

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1 AN ACT *to renumber and amend* 196.378 (1) (i); *to amend* 196.378 (title),
2 196.378 (1) (ag), 196.378 (1) (b), 196.378 (1) (fm) (intro.), 196.378 (1) (fm) 1.,
3 196.378 (1) (fm) 2., 196.378 (1) (o) (intro.), 196.378 (1) (o) 1., 196.378 (1) (o) 2.,
4 196.378 (2) (title), 196.378 (2) (a) 1., 196.378 (2) (a) 2. a., 196.378 (2) (a) 2. b.,
5 196.378 (2) (a) 2. c., 196.378 (2) (a) 2. d., 196.378 (2) (a) 2. e., 196.378 (2) (b) 5.,
6 196.378 (2) (bm), 196.378 (2) (c), 196.378 (2) (d) (intro.), 196.378 (2) (d) 2.,
7 196.378 (2) (e) 2., 196.378 (2) (e) 3., 196.378 (2) (e) 4., 196.378 (3) (title), 196.378
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9 (title), 196.378 (4m) (a), 196.378 (4m) (b), 196.378 (4r) and 196.378 (5) (intro.);
10 and *to create* 196.378 (1) (ab), 196.378 (1) (ac) and 196.378 (1) (ad) of the
11 statutes; **relating to:** the use of nuclear energy to comply with renewable

BILL

1 portfolio standards and the time period for using credits to comply with such
2 standards.

Analysis by the Legislative Reference Bureau

Under current law, an electric utility or retail electric cooperative (utility or cooperative) is subject to certain requirements for ensuring that, in a given year, a specified percentage of the electricity that the utility or cooperative sells to retail customers is derived from renewable resources. Such requirements are commonly referred to as "renewable portfolio standards." A utility or cooperative creates renewable resource credits based on the amount of electricity derived from renewable resources that the utility or cooperative sells to its customers or members in a year. Current law allows a utility or cooperative to use the credits to comply with a renewable portfolio standard for a particular year, bank the credits for use in a subsequent year, or sell the credits to another utility or cooperative. Current law defines "renewable resource" to include solar and wind power, geothermal technology, biomass, and other specified resources. A utility or cooperative may not create a credit based on electricity derived from a "conventional resource," which current law defines to include coal, oil, nuclear power, and, with certain exceptions, natural gas.

This bill allows a utility or cooperative to use electricity derived from nuclear power to comply with a renewable portfolio standard. The bill achieves that result by allowing a utility or cooperative to create credits based on the amount of electricity derived from nuclear power that the utility or cooperative sells to its customers or members in a year, in addition to the amount of electricity derived from renewable resources.

The bill also eliminates a restriction on the use of credits to comply with renewable portfolio standards. Under current law, a credit may not be used after the fourth year in which the credit is created, unless the Public Service Commission promulgates rules specifying a different time period. This bill eliminates that restriction.

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

3 SECTION 1. 196.378 (title) of the statutes is amended to read:

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5 SECTION 2. 196.378 (1) (ab) of the statutes is created to read:

6 196.378 (1) (ab) "Advanced energy" means electricity ~~derived from nuclear~~

7 power

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5 196.378 (1) (ad) "Advanced facility" means an installed and operational ~~new~~
6 ~~generating facility~~ located in ~~or outside~~ this state ~~that generates advanced energy.~~
7

8 SECTION 5. 196.378 (1) (ag) of the statutes is amended to read:

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10 energy provider's renewable energy percentage, as defined in s. 196.378 (1) (fm),
11 2011 stats., for 2001, 2002, and 2003.

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19 total amount of electricity that the electric provider sold to retail customers or
20 members in that year:

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BILL**SECTION 9**

1 196.378 (1) (fm) 2. Any ~~renewable~~ resource credits in addition to the ~~renewable~~
2 resource credits specified in subd. 1. that the electric provider elects to use in that
3 year.

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19 between the electric provider and the affiliated interest or wholesale supplier.

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23 facility that is not owned or operated by the affiliated interest or wholesale supplier,
24 which renewable or advanced energy is allocated to the electric provider under an

BILL

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6 196.378 (2) (a) 1. No later than June 1, 2016, the commission shall prepare a
7 report stating whether, by December 31, 2015, the state has met a goal of 10 percent
8 of all electric energy consumed in the state being renewable and advanced energy.
9 If the goal has not been achieved, the report shall indicate why the goal was not
10 achieved and how it may be achieved, and the commission shall prepare similar
11 reports biennially thereafter until the goal is achieved. The commission shall submit
12 reports under this subdivision to the governor and chief clerk of each house of the
13 legislature for distribution to the legislature under s. 13.172 (2).

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24 provider may not decrease its renewable and advanced energy percentage below the

BILL**SECTION 18**

1 electric provider's renewable and advanced energy percentage required under subd.

2 2. b.

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6 above the electric provider's baseline renewable percentage.

7 **SECTION 20.** 196.378 (2) (a) 2. e. of the statutes is amended to read:

8 196.378 (2) (a) 2. e. For each year after 2015, each electric provider may not
9 decrease its renewable and advanced energy percentage below the electric provider's
10 renewable and advanced energy percentage required under subd. 2. d.

11 **SECTION 21.** 196.378 (2) (b) 5. of the statutes is amended to read:

12 196.378 (2) (b) 5. An electric provider that purchases renewable or advanced
13 energy from a renewable or advanced energy supplier may use an allocated share of
14 the renewable or advanced energy sold by the renewable or advanced energy supplier
15 to comply with a requirement under par. (a) 2. or to create a credit under sub. (3) (a),
16 provided that the cost of the renewable or advanced energy is included in the price
17 the electric provider paid the renewable or advanced energy supplier.

18 **SECTION 22.** 196.378 (2) (bm) of the statutes is amended to read:

19 196.378 (2) (bm) Each electric provider shall annually retire renewable
20 resource credits sufficient to satisfy the electric provider's renewable and advanced
21 energy percentage required under par. (a) 2.

22 **SECTION 23.** 196.378 (2) (c) of the statutes is amended to read:

23 196.378 (2) (c) No later than April 15 annually, or another annual date specified
24 by the commission by rule, an electric provider shall submit a report to the
25 commission that identifies the electric provider's renewable and advanced energy

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1 percentage for the previous year and describes the electric provider's compliance
2 with par. (a) 2. and the electric provider's implementation plans for future
3 compliance. Reports under this paragraph may include certifications from
4 renewable and advanced energy suppliers regarding the sources and amounts of
5 renewable and advanced energy supplied to the electric provider. The commission
6 may specify the documentation that is required to be included with reports
7 submitted under this paragraph. The commission may require that electric
8 providers submit the reports in a proceeding, initiated by the commission under this
9 section relating to the implementation of s. 1.12, or in a proceeding for preparing a
10 strategic energy assessment under s. 196.491 (2). No later than 90 days after the
11 commission's receipt of an electric provider's report, the commission shall inform the
12 electric provider whether the electric provider is in compliance with par. (a) 2.

13 **SECTION 24.** 196.378 (2) (d) (intro.) of the statutes is amended to read:

14 196.378 (2) (d) (intro.) The commission shall allow an electric utility to recover
15 from ratepayers the cost of providing total renewable and advanced energy to its
16 retail customers in amounts that equal or exceed the percentages specified in par. (a).
17 Subject to any approval of the commission that is necessary, an electric utility may
18 recover costs under this paragraph by any of the following methods:

19 **SECTION 25.** 196.378 (2) (d) 2. of the statutes is amended to read:

20 196.378 (2) (d) 2. Establishing alternative price structures, including price
21 structures under which customers pay a premium for renewable or advanced energy.

22 **SECTION 26.** 196.378 (2) (e) 2. of the statutes is amended to read:

23 196.378 (2) (e) 2. Notwithstanding reasonable efforts to protect against
24 unreasonable increases in rates of the applicant's ratepayers or members,
25 compliance with the deadline will result in unreasonable increases in rates of the

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1 applicant's ratepayers or members, including increases that are due to the
2 discontinuation of federal renewable or advanced energy tax credits or other federal
3 policies intended to reduce the acquisition costs of renewable or advanced energy.

4 **SECTION 27.** 196.378 (2) (e) 3. of the statutes is amended to read:

5 196.378 (2) (e) 3. Notwithstanding reasonable efforts to obtain required
6 approvals, the applicant cannot comply with the deadline because the applicant or
7 a supplier has experienced or will experience delays in receiving required siting or
8 permitting approvals for renewable or advanced energy projects.

9 **SECTION 28.** 196.378 (2) (e) 4. of the statutes is amended to read:

10 196.378 (2) (e) 4. Notwithstanding reasonable efforts to secure transmission
11 service, the applicant cannot comply with the deadline because the applicant faces
12 transmission constraints that interfere with the economic and reliable delivery of
13 renewable or advanced energy to the applicant's system.

14 **SECTION 29.** 196.378 (3) (title) of the statutes is amended to read:

15 196.378 (3) (title) ~~RENEWABLE RESOURCE~~ RESOURCE CREDITS.

16 **SECTION 30.** 196.378 (3) (a) 1. of the statutes is amended to read:

17 196.378 (3) (a) 1. Each megawatt hour of an electric provider's total renewable
18 and advanced energy creates one ~~renewable~~ resource credit for the electric provider.
19 Subject to subd. 2., an electric provider that exceeds its renewable and advanced
20 energy percentage required under sub. (2) (a) 2. may, in the applicable year, bank any
21 excess ~~renewable~~ resource credits or any portion of any excess ~~renewable~~ resource
22 credit for use in a subsequent year or sell any excess ~~renewable~~ resource credits or
23 any portion of any excess ~~renewable~~ resource credit to any other electric provider at
24 any negotiated price. An electric provider that creates or purchases a renewable
25 resource credit or portion may use the credit or portion, as provided under par. (c),

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1 to establish compliance with sub. (2) (a) 2. The commission shall promulgate rules
2 that establish requirements for the creation and use of a renewable resource credit
3 created on or after January 1, 2004, including calculating the amount of a renewable
4 resource credit, and for the tracking of renewable resource credits by a regional
5 renewable resource credit tracking system. The rules shall specify the manner for
6 aggregating or allocating credits under this subdivision or sub. (2) (b) 4. or 5.

7 **SECTION 31.** 196.378 (3) (a) 1m. of the statutes is amended to read:

8 196.378 (3) (a) 1m. The commission shall promulgate rules that allow an
9 electric provider or customer or member of an electric provider to create a renewable
10 resource credit based on use in a year by the electric provider, customer, or member
11 of solar energy, including solar water heating and direct solar applications such as
12 solar light pipe technology; wind energy; hydroelectric energy; geothermal energy;
13 biomass; biogas; synthetic gas created by the plasma gasification of waste; densified
14 fuel pellets described in sub. (1) (h) 1. i.; or fuel described in sub. (1) (h) 1. j.; but only
15 if the use displaces the electric provider's, customer's, or member's use of electricity
16 that is derived from conventional resources, and only if the displacement is verifiable
17 and measurable, as determined by the commission. The rules shall allow an electric
18 provider, customer, or member to create a renewable resource credit based on 100
19 percent of the amount of the displacement. The rules may not allow an electric
20 provider to create renewable resource credits under this subdivision based on
21 renewable or advanced energy upon which renewable resource credits are created
22 under subd. 1. The rules may also not allow an electric provider to create renewable
23 resource credits under this subdivision based on hydroelectric energy that is not
24 eligible for creating renewable resource credits under subd. 1.

25 **SECTION 32.** 196.378 (3) (a) 2. of the statutes is amended to read:

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1 196.378 (3) (a) 2. The commission shall promulgate rules for calculating the
2 amount of a renewable resource credit that is bankable from a renewable or
3 advanced facility placed into service before January 1, 2004. The amount of a
4 bankable renewable resource credit created on or after January 1, 2004, from such
5 a renewable or advanced facility, except a renewable or advanced facility owned by
6 a retail customer of an electric provider, is limited to the incremental increase in
7 output from the renewable or advanced facility that is due to capacity improvements
8 made on or after January 1, 2004.

9 **SECTION 33.** 196.378 (3) (c) of the statutes is amended to read:

10 196.378 (3) (c) A renewable resource credit created under s. 196.378 (3) (a),
11 2003 stats., may not be used after December 31, 2011. ~~A renewable resource credit~~
12 ~~created under par. (a) 1., 1m., or 2. may not be used after the 4th year after the year~~
13 ~~in which the credit is created, except the commission may promulgate rules~~
14 ~~specifying a different period of time if the commission determines that such period~~
15 ~~is necessary for consistency with any regional renewable resource credit trading~~
16 ~~program that applies in this state.~~

17 **SECTION 34.** 196.378 (4m) (title) of the statutes is amended to read:

18 196.378 (4m) (title) ~~ADDITIONAL RENEWABLE RESOURCES REQUIREMENTS.~~

19 **SECTION 35.** 196.378 (4m) (a) of the statutes is amended to read:

20 196.378 (4m) (a) The commission may not impose on an electric provider any
21 requirement that increases the electric provider's renewable and advanced energy
22 percentage beyond that required under sub. (2) (a) 2. If an electric provider is in
23 compliance with the requirements of sub. (2) (a) 2., the commission may not require
24 the electric provider to undertake, administer, or fund any other renewable or

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1 advanced energy program. This paragraph does not limit the authority of the
2 commission to enforce an electric provider's obligations under s. 196.374.

3 **SECTION 36.** 196.378 (4m) (b) of the statutes is amended to read:

4 196.378 (4m) (b) An electric utility may, with commission approval, administer
5 or fund a program that increases the electric utility's renewable and advanced
6 energy percentage beyond that required under sub. (2) (a) 2. The commission may
7 not order an electric utility to administer or fund a program under this paragraph.

8 **SECTION 37.** 196.378 (4r) of the statutes is amended to read:

9 196.378 (4r) REPORTS. No later than July 1 of each even-numbered year, the
10 commission shall submit a report to the governor and chief clerk of each house of the
11 legislature for distribution to the legislature under s. 13.172 (2) that evaluates the
12 impact of the requirements of this section on the rates and revenue requirements of
13 electric providers and compares that impact with the impact that would have
14 occurred if renewable and advanced energy practices of electric providers were
15 subject to market forces in the absence of the requirements of this section.

16 **SECTION 38.** 196.378 (5) (intro.) of the statutes is amended to read:

17 196.378 (5) PENALTY. (intro.) Any person who violates sub. (2) or any renewable
18 or advanced energy supplier who provides an electric provider with a false or
19 misleading certification regarding the sources or amounts of renewable or advanced
20 energy supplied at wholesale to the electric provider shall forfeit not less than \$5,000
21 nor more than \$500,000. Forfeitures under this subsection shall be enforced by
22 action on behalf of the state by the attorney general. A court imposing a forfeiture
23 under this subsection shall consider all of the following in determining the amount
24 of the forfeiture:

25

(END)

d-note

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0527/3ins
MDK:.....

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INSERT 2A:

However, only electricity generated at a nuclear facility in this state may be used to comply with a renewable portfolio standard. In addition, the electricity may not be used if it is subject to a power purchase agreement that was entered into before the bill's effective date.

INSERT 2-7:

generated by an advanced facility, but does not include electricity that is subject to a power purchase agreement entered into before the effective date of this paragraph
.... [LRB inserts date]

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0527/3dn

MDK:f:...

eev

date

Rep. Jacqué:

This version is identical to the previous version, except that the definition^s of “advanced energy” and “advanced facility” are revised to exclude nuclear power generated by facilities in other states, as well as nuclear power that is subject to a power purchase agreement entered into before the bill’s effective date.

Please note that one could argue that the exclusion of out-of-state nuclear power from the renewable portfolio standards creates an in-state preference that violates the Commerce Clause of the U.S. Constitution. If you would like me to look further at this issue, please let me know.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0527/3dn
MDK:eev:jm

December 28, 2012

Rep. Jacque:

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Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

Rose, Stefanie

From: Julian, Jamie
Sent: Wednesday, February 13, 2013 12:04 PM
To: LRB.Legal
Subject: Draft Review: LRB -0527/3 Topic: Allow nuclear power to be included for purposes of renewable portfolio standard; change name of standard to renewable and advanced energy portfolio standard

Jamie Julian – 266-9870 – 123 West

Please Jacket LRB -0527/3 for the ASSEMBLY.