2013 DRAFTING REQUEST

Bill

Received:	**2/27/2014**	Received By:	**mkunkel**
Wanted:	**As time permits**	Same as LRB:	**-4320**
For:	**Katrina Shankland (608) 267-9649**	By/Representing:	**Annika Petty**
May Contact:		Drafter:	**mkunkel**
Subject:	**Public Util. - energy**	Addl. Drafters:	
		Extra Copies:	**EVM**

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

Pre Topic:

No specific pre topic given

Topic:

Renewable portfolio standards, renewable tariffs, and distributed generation.

Instructions:

Same as LRB-4161, except delete 3rd party public utility exemption

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/1	mkunkel 2/27/2014	csicilia 2/27/2014	jfrantze 2/27/2014	_____ _____	lparisi 2/27/2014	lparisi 2/27/2014	State

FE Sent For:

At Intro.

<END>

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Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/1	mkunkel	/1 cjs 2/27/14					State

FE Sent For:

<END>

Kunkel, Mark

From: Petty, Annika
Sent: Wednesday, February 26, 2014 11:58 AM
To: Kunkel, Mark
Cc: Bier, Beth
Subject: LRB 4320/1

Mark,

Can you draft a companion bill for 4320/1 for the State Assembly? Rep. Shankland will be introducing the Assembly bill. I have CC'ed Beth from Sen. Miller's office in this email.

Thanks,
Annika

Annika L. Petty
Office of Rep. Katrina Shankland
71st Assembly District
(608) 267-9649

apetty@legis.wisconsin.gov

From: Sen.Miller
Sent: Wednesday, February 26, 2014 11:46 AM
To: *Legislative All Assembly; *Legislative All Senate
Subject: Co-sponsorship Request: Wisconsin Renewable Energy Act, LRB 4320/1

TO: Wisconsin Legislature
FR: Sen. Miller, Rep. Shankland, Rep. Mason
RE: Wisconsin Renewable Energy Act

We are circulating LRB 4320/1, the Wisconsin Renewable Energy Act. This bill sets Wisconsin on a course to achieving 30% renewable energy by 2030. Adopting a robust renewable energy standard will enhance reliability, reduce dependence on out-of-state fuels and their attendant price fluctuations, create Wisconsin jobs and invest in Wisconsin-based energy generation. Wisconsin sends $12 billion each year out of state to meet energy demands. Investing in renewable energy like digesters, solar, and wind keeps more of that money in Wisconsin's economy.

The bill sets a renewable standard of 30% by 2030. Recent polling shows 84% of Wisconsin's residents support increasing the state standard to 30%. This would put Wisconsin back on the map as a leader in renewable energy as we were when the original 10% standard was set. Currently, Wisconsin has the lowest statewide requirement in the country.

Other provisions in the bill include:

- Net metering, which is a policy ensures that everyone can get full credit for producing their own renewable electricity. Net metering allows meters to spin backward as well as forward. Like rollover minutes for a cell phone, this allows people to balance out times when they are generating electricity with times when they are using more than they generate.

- Advanced Renewable Tariffs, which are set prices for renewable energy generation like wind and solar. This bill directs the PSC to require the electrical utilities to establish a system of Advanced Renewable Tariffs. The market then functions to determine how much, where, and by whom renewables will be developed.

The Wisconsin Renewable Energy Act will help create a sound energy policy that will provide regulatory certainty for renewable energy companies, utilities and Wisconsin's residents.

Please contact Sen. Miller's office by Friday, February 28th at 266-9170 or Rep. Shankland's office at 267-9649 if you would like be added as a co-sponsor. You will be added to both Senate and Assembly bills unless otherwise noted.

13-4320_1.pdf

State of Wisconsin
2013 – 2014 LEGISLATURE

LRB–4320/1
MDK:cjs:rs

2013 BILL

AN ACT ***to repeal*** 196.378 (2) (a) 2. f.; ***to renumber and amend*** 196.378 (2) (bm) and 196.378 (3) (a) 1.; ***to amend*** 196.025 (1) (c) 1., 196.378 (1) (h) 1. g., 196.378 (1) (i), 196.378 (2) (a) 2. d., 196.378 (2) (a) 2. e., 196.378 (2) (b) (intro.), 196.378 (2) (b) 5., 196.378 (2) (c), 196.378 (2) (d) (intro.), 196.378 (2) (e) (intro.), 196.378 (2) (f) (intro.), 196.378 (2) (g) 2., 196.378 (3) (a) 1m., 196.378 (3) (b), 196.378 (3) (c), 196.378 (4m) (a), 196.491 (title), 196.491 (6) and 196.496 (1); and ***to create*** 196.378 (1) (ai), 196.378 (1) (ak), 196.378 (1) (df), 196.378 (1) (dh), 196.378 (2) (a) 2. g., h., i. and j., 196.378 (2) (am), 196.378 (2) (b) 1t., 196.378 (2) (bm) 2., 196.378 (3) (a) 1b., 196.378 (3) (a) 1f., 196.378 (3) (a) 1g., 196.379 and 196.491 (7) of the statutes; **relating to:** renewable portfolio standards and credits; electricity derived from biofuels; electric utility purchases of renewable energy

1 and customer–generated electricity; distributed generation rules; granting
2 rule–making authority; and requiring the exercise of rule–making authority.

Analysis by the Legislative Reference Bureau

This bill does all of the following: 1) makes changes to renewable portfolio standards that apply to electric providers; 2) imposes biofuel requirements on electric providers; 3) requires electric utilities to make certain purchases of renewable energy; and 4) imposes duties on the the Public Service Commission (PSC) regarding distributed generation facilities.

Renewable portfolio standards. Current law generally requires electric utilities and retail electric cooperatives (electric providers) to ensure that, in a given year, a specified percentage of the electricity that the electric provider sells to customers or members is renewable energy. These requirements are commonly referred to as renewable portfolio standards (RPSs), and they include deadlines that apply to an electric provider's renewable energy percentage (REP). An electric provider's REP for a particular year is the percentage that results from dividing the electric provider's renewable resource credits (RRCs) by the total electricity sold by the electric provider in that year. There are two types of RRCs. The first type is based on electricity derived from renewable energy. An electric provider creates one RRC of that type for each megawatt hour of electricity derived from renewable energy that the electric provider sells to customers or members. The second type is based on specified energy–related uses that displace the use of nonrenewable energy. Electric providers, as well as their customers and members, may create the second type of RRC, pursuant to rules promulgated by the PSC. Electric providers may use RRCs that they create, or purchase RRCs created by others, to comply with an REP for a particular year.

Regarding the first type of RRC described above, the bill allows an electric provider to create two RRCs, instead of one RRC, for each megawatt hour of electricity that meets specified requirements. First, the electricity must be generated by either: 1) a facility that generates electricity and thermal energy used for industrial, commercial, heating, or cooling purposes; or 2) a facility that generates electricity from direct radiant energy received from the sun. Second, the electric generating facility must commence operation prior to January 1, 2020. Third, if the electricity is purchased by an electric utility, the purchase must satisfy certain requirements. Fourth, the electric generating facility must be located in this state. Regarding the second type of RRC described above, the bill makes changes to the solar energy–related uses that are eligible to create RRCs, including defining integrated light pipe technology that is eligible to create RRCs.

The bill also makes changes to REPs. For the year 2009, current law prohibited an electric provider from decreasing its REP below its baseline renewable percentage (BRP), which is defined as the average of the electric provider's REP for 2001, 2002, and 2003. For the year 2010, current law required an electric provider to increase its REP at least two percentage points above its BRP. For the years 2011 to 2014,

current law prohibits an electric provider from decreasing its REP below the percentage required in 2010. For the year 2015, unless an exception applies, current law requires an electric provider to increase its REP at least six percentage points above its BRP, and for each year thereafter, current law prohibits an electric provider from decreasing its REP below the percentage required in 2015. The exception applies to an electric provider whose BPR exceeds 12 percent and whose REP for the year 2014 exceeds 14 percent. An electric provider who qualifies for the exception must maintain its REP in the years 2015 and thereafter at a level that is at least two percentage points above its BRP.

This bill eliminates the exception that applies in the years 2015 and thereafter. For the year 2015, the bill requires an electric provider to increase its REP at least six percentage points above its BRP, and for the years 2016 to 2019, prohibits an electric provider from decreasing its REP below the percentage required for the year 2015. For the year 2020, the bill requires an electric provider to increase its REP at least sixteen percentage points above its BPR, and for the years 2021 to 2029, prohibits an electric provider from decreasing its REP below the percentage required for the year 2020. For the year 2030, the bill requires an electric provider to increase its REP at least twenty–six percentage points above its BRP, and for each year thereafter, the bill prohibits an electric provider from decreasing its REP below the percentage required for 2030.

The bill also limits an electric provider's use of electricity derived from hydroelectric power to satisfy an REP required in the year 2020 and thereafter. For the years 2020 to 2029, an electric utility may count such electricity for not more than 25 percent of its REP. For the year 2030 and thereafter, an electric utility may count such electricity for not more than 20 percent of its REP.

Biofuels. The bill also requires an electric provider to ensure that a specified percentage of the electricity sold to retail customers or members (retail electricity) is derived from "biofuels," which the bill defines as, with certain exceptions, fuels produced by the anaerobic fermentation of material derived from living organisms. For the years 2020 to 2029, the bill requires an electric provider to ensure that not less than 0.3 percent of its retail electricity is derived from biofuels. For year 2030 and each year thereafter, not less than 0.5 percent must be derived from biofuels. Under the bill, biofuel–derived retail electricity may be used to comply with either the foregoing percentages or an REP described above. However, any biofuel–derived retail electricity that is used to comply with the foregoing percentages may not be used also to comply with an REP. The bill also establishes a goal that, by December 31, 2030, 0.5 percent of all electric energy consumed in the state is renewable energy derived from biofuels. No later than June 1, 2031, the PSC must submit a report to the legislature stating whether the state has met that goal and, biennially thereafter, must submit reports until the goal is achieved.

Electric utility purchases of renewable energy. With certain exceptions, this bill requires the PSC to issue an order directed at each retail electric utility that requires the utility to offer to purchase the renewable energy generated at renewable facilities within the utility's service territory that are constructed after the effective date of the PSC's order. The bill defines "renewable facility" as an electric generating

facility that derives energy from: 1) photovoltaic energy; 2) wind power; 3) gas made from renewable resources; or 4) any other renewable resource specified by rule by the PSC. In addition, to qualify as a "renewable facility," the facility must be a small–scale facility, as defined by rule by the PSC. The PSC's orders must specify standard purchase terms for each type of renewable facility, including terms for prices paid for renewable energy, payment schedules, and maximum limits on generating capacity. In specifying terms for renewable energy prices, the PSC must consider production costs, reasonable rates of return on investment, and state and federal incentives available to facility owners and operators. The PSC's orders may also include other conditions, including the following: 1) requirements for adjusting the standard purchase terms based on changes in operating costs; and 2) different prices for renewable energy generated at renewable facilities of the same type that have different generating capacities. The PSC's orders must also prescribe for each type of renewable facility a standardized agreement incorporating the applicable terms and conditions.

The bill allows the PSC to limit a requirement of a utility to purchase renewable energy under an order described above. The PSC may base a limit on the number of renewable facilities, the total installed generating capacity of renewable facilities, or the total amount of renewable energy that must be purchased. However, a limit must be consistent with the purpose of the bill's requirements regarding the orders, which the bill specifies is to maximize the development and deployment of distributed renewable energy generation technologies used at renewable facilities without unreasonable impacts on rates.

The bill also allows the PSC to exempt small and large retail electric utilities from certain of the above requirements. Under the bill, a small utility is one that had retail electric sales of less than 2,500,000 megawatt hours in 2013, and a large utility is one that had retail electric sales of 2,500,000 megawatt hours or more in 2013. For a small or large utility, the PSC may exempt the utility from the requirement to purchase renewable energy from particular types of renewable facilities. For a large utility, the PSC may exempt the utility from all of the above requirements. However, a large utility is not eligible for either of the foregoing exemptions unless the PSC finds that the utility's voluntary initiatives are consistent with the purpose of the bill's requirements regarding the orders, as described above.

The bill also does the following: 1) requires the PSC to periodically review its orders and, as appropriate, revise the standardized agreements prescribed in the orders; 2) specifies that a utility that purchases renewable energy as directed in an order acquires the RRCs associated with the renewable energy, unless otherwise specified by the parties; and 3) allows a utility and owner or operator of a renewable facility to agree to renewable energy purchases on terms and conditions that differ from those specified in an order.

The bill also requires an electric utility to purchase electricity generated from renewable resources by certain customers at specified prices. The duty is limited to customers whose electric generation capacity does not exceed two megawatts. For customer–generated electricity that does not exceed the amount of electricity that the electric utility sells to a customer, the utility must pay a price equal to the retail

electricity price the utility charges the customer. For customer–generated electricity in excess of that amount, the electric utility must pay prices set by the PSC by order that reflect certain wholesale prices. Payments must be calculated and made for each billing cycle, but are subject to adjustment based on annual calculations. The PSC must issue orders specifying requirements for the purchases, and the orders must limit annual purchases to an amount not exceeding one percent of annual electricity sales by all electric utilities.

Distributed generation facilities. Under current law, the PSC must promulgate rules establishing standards for the connection of distributed generation facilities to electric distribution facilities. Current law defines "distributed generation facility" as an electric generating facility that: 1) satisfies certain location requirements; and 2) has a capacity of no more than 15 megawatts. Under this bill, an electric generating facility is a distributed generation facility if it satisfies the location requirements and has a capacity of no more than 20 megawatts. The bill also requires the PSC to review the service rules and practices of electric utilities to determine whether they promote the development of distributed generation facilities, and to report its findings to the legislature. In addition, the PSC must promulgate rules to prohibit any service rules or practices that do not promote, or that impede, the development of distributed generation facilities.

For further information see the ***state*** 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.** 196.025 (1) (c) 1. of the statutes is amended to read:

2 196.025 **(1)** (c) 1. In a proceeding in which an investor–owned electric public
3 utility is a party, the commission shall not order or otherwise impose any renewable
4 resource requirements on the investor–owned electric public utility if the
5 commission has fulfilled all of its duties under s. 196.378 and the commission has
6 informed the utility under s. 196.378 (2) (c) that, with respect to the most recent
7 report submitted under s. 196.378 (2) (c), the utility is in compliance with the
8 requirements of s. 196.378 (2) (a) 2. <u>and (am) 2.</u>

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

10 196.378 **(1)** (ai) 1. Except as provided in subd. 2., "biofuel" means a fuel
11 produced by the anaerobic fermentation of any material derived from any living

organism, regardless of the degree or nature of processing or modification that the material has undergone.

2. "Biofuel" does not include a fuel produced by the anaerobic fermentation of any of the following:

a. Fossil fuels or any material derived from fossil fuels.

b. Mixed refuse.

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

196.378 **(1)** (ak) "Biofuel credit" means a renewable resource credit that is based on electricity generated from a biofuel.

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

196.378 **(1)** (df) "Hydroelectric renewable resource" means a renewable resource specified in par. (h) 1. m.

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

196.378 **(1)** (dh) "Integrated light pipe technology" means a lighting system that combines the following:

1. A light pipe.

2. An electric lighting system with controls that detect ambient light and adjust the amount of light produced by the system to maintain a preset level of lighting in an occupied space.

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

196.378 **(1)** (h) 1. g. Biomass <u>or biofuel</u>.

SECTION 7. 196.378 (1) (i) of the statutes is amended to read:

196.378 **(1)** (i) "Renewable resource credit" means a credit calculated in accordance with <u>sub. (3) (a) 1f. or the</u> rules promulgated under sub. (3) (a) ~~1.~~ <u>1d.</u>, 1m., and 2.

1 **SECTION 8.** 196.378 (2) (a) 2. d. of the statutes, as affected by 2013 Wisconsin
2 Act .... (Assembly Bill 594), is amended to read:
3 196.378 **(2)** (a) 2. d. ~~Except as provided in subd. 2. f., for~~ For the year 2015, each
4 electric provider shall increase its renewable energy percentage so that it is at least
5 6 percentage points above the electric provider's baseline renewable percentage.
6 **SECTION 9.** 196.378 (2) (a) 2. e. of the statutes, as affected by 2013 Wisconsin
7 Act .... (Assembly Bill 594), is amended to read:
8 196.378 **(2)** (a) 2. e. ~~Except as provided in subd. 2. f., for each year after 2015~~
9 For the years 2016, 2017, 2018, and 2019, each electric provider may not decrease
10 its renewable energy percentage below the electric provider's renewable energy
11 percentage required under subd. 2. d.
12 **SECTION 10.** 196.378 (2) (a) 2. f. of the statutes, as created by 2013 Wisconsin
13 Act .... (Assembly Bill 594), is repealed.
14 **SECTION 11.** 196.378 (2) (a) 2. g., h., i. and j. of the statutes are created to read:
15 196.378 **(2)** (a) 2. g. For the year 2020, each electric provider shall increase its
16 renewable energy percentage so that it is at least 16 percentage points above the
17 electric provider's baseline renewable percentage.
18 h. For the years 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, and 2029, each
19 electric provider may not decrease its renewable energy percentage below the
20 electric provider's renewable energy percentage required under subd. 2. g.
21 i. For the year 2030, each electric provider shall increase its renewable energy
22 percentage so that it is at least 26 percentage points above the electric provider's
23 baseline renewable percentage.

j. For each year after 2030, each electric provider may not decrease its renewable energy percentage below the electric provider's renewable energy percentage required under subd. 2. i.

SECTION 12. 196.378 (2) (am) of the statutes is created to read:

196.378 **(2)** (am) 1. No later than June 1, 2031, the commission shall prepare a report stating whether, by December 31, 2030, the state has met a goal of 0.5 percent of all electric energy consumed in the state being renewable energy derived from biofuels. If the goal has not been achieved, the report shall indicate why the goal was not achieved and how it may be achieved, and the commission shall prepare similar reports biennially thereafter until the goal is achieved. The commission shall submit reports under this subdivision to the governor and the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2).

2. Except as provided in pars. (e), (f), and (g), each electric provider shall ensure that, of the electricity it sells in a year to retail customers or members, the percentage that is derived from biofuels is not less than the following:

a. For the years 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, and 2029, 0.3 percent.

b. For the year 2030 and each year thereafter, 0.5 percent.

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

196.378 **(2)** (b) (intro.) For purposes of determining compliance with ~~par. (a)~~ pars. (a) 2. and (am) 2.:

SECTION 14. 196.378 (2) (b) 1t. of the statutes is created to read:

196.378 **(2)** (b) 1t. Notwithstanding subds. 1m. and 1o.:

a. An electric provider may not, in a year, count electricity derived from hydroelectric renewable resources for more than 25 percent of the renewable energy percentage required under par. (a) 2. g. or h.

b. An electric provider may not, in a year, count electricity derived from hydroelectric renewable resources for more than 20 percent of the renewable energy percentage required under par. (a) 2. i. or j.

SECTION 15. 196.378 (2) (b) 5. of the statutes is amended to read:

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

SECTION 16. 196.378 (2) (bm) of the statutes is renumbered 196.378 (2) (bm) 1. and amended to read:

196.378 **(2)** (bm) 1. Each electric provider shall annually retire renewable resource credits sufficient to satisfy the electric provider's renewable energy percentage required under par. (a) 2. <u>An electric provider may retire biofuel credits under this subdivision, except that an electric provider may not include biofuel credits it retires under subd. 2. in the renewable resource credits it retires under this subdivision.</u>

SECTION 17. 196.378 (2) (bm) 2. of the statutes is created to read:

196.378 **(2)** (bm) 2. Each electric provider shall annually retire biofuel credits sufficient to satisfy the electric provider's obligation under par. (am) 2.

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

1 196.378 **(2)** (c) No later than April 15 annually, or another annual date specified
2 by the commission by rule, an electric provider shall submit a report to the
3 commission that identifies the electric provider's renewable energy percentage for
4 the previous year and describes the electric provider's compliance with ~~par. (a) 2.~~
5 pars. (a) 2. and (am) 2. and the electric provider's implementation plans for future
6 compliance. Reports under this paragraph may include certifications from
7 renewable energy suppliers regarding the sources and amounts of renewable energy
8 supplied to the electric provider. The commission may specify the documentation
9 that is required to be included with reports submitted under this paragraph. The
10 commission may require that electric providers submit the reports in a proceeding,
11 initiated by the commission under this section relating to the implementation of s.
12 1.12, or in a proceeding for preparing a strategic energy assessment under s. 196.491
13 (2). No later than 90 days after the commission's receipt of an electric provider's
14 report, the commission shall inform the electric provider whether the electric
15 provider is in compliance with ~~par. (a) 2.~~ pars. (a) 2. and (am) 2.

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

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

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

23 196.378 **(2)** (e) (intro.) An electric provider, or a wholesale supplier for its
24 members, may request that the commission grant a delay for complying with a
25 deadline specified in par. (a) 2. or (am) 2. The commission shall hold a hearing on

1 the request and, if requested by the electric provider or wholesale supplier, treat the
2 matter as a contested case. The commission shall grant a delay if the commission
3 determines that the applicant has demonstrated good faith efforts to comply with the
4 deadline and that any of the following applies:

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

6 196.378 **(2)** (f) (intro.) A wholesale electric cooperative for its members or a
7 municipal electric company for its members may delay compliance with a deadline
8 specified in par. (a) 2. <u>or (am) 2.</u> for any reason specified in par. (e) 1. to 4. A wholesale
9 electric cooperative or a municipal electric company that delays compliance with a
10 deadline specified in par. (a) 2. <u>or (am) 2.</u> shall inform the commission of the delay
11 and the reason for the delay, and shall submit information to the commission
12 demonstrating that, notwithstanding good faith efforts by the wholesale electric
13 cooperative or municipal electric company and its members, the members cannot
14 meet the deadline for the stated reason.

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

16 196.378 **(2)** (g) 2. An energy consumer advocacy group may request that the
17 commission grant to an electric provider that serves one or more members of the
18 group a delay for complying with a deadline specified in par. (a) 2. <u>or (am) 2.</u> The
19 commission shall hold a hearing on the request and, if requested by the energy
20 consumer advocacy group, treat the matter as a contested case. The commission
21 shall grant a delay if the commission determines that the utility has demonstrated
22 good faith efforts to comply with the deadline and that any of the conditions in par.
23 (e) 1. to 4. apply.

24 **SECTION 23.** 196.378 (3) (a) 1. of the statutes is renumbered 196.378 (3) (a) 1d.
25 and amended to read:

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

17 **SECTION 24.** 196.378 (3) (a) 1b. of the statutes is created to read:

18 196.378 **(3)** (a) 1b. The legislature finds all of the following:

19 a. It is essential to the health and safety and economic well–being of Wisconsin
20 that the state maintain a highly reliable electric system at all times.

21 b. Historically, Wisconsin has relied on imports of electricity from other states
22 for about 15 percent of the state's electricity needs.

23 c. It is essential to the health and safety and economic well–being of Wisconsin
24 that the state take actions to mitigate global climate change from emissions of
25 greenhouse gasses. Central to such mitigation efforts is reducing reliance on

electricity produced from fossil fuels through policies such as the requirements under sub. (2) (a) 2.

d. To balance the competing imperatives of maintaining the reliability of the electric system and reducing dependence on electricity produced from fossil fuels, it is essential that Wisconsin encourages the production of electricity from renewable facilities in this state under subd. 1f. c.

SECTION 25. 196.378 (3) (a) 1f. of the statutes is created to read:

196.378 **(3)** (a) 1f. Each megawatt hour of electricity of an electric provider's total renewable energy creates 2 renewable resource credits for the electric provider if all of the following apply:

a. The facility that generated the electricity commenced operation prior to January 1, 2020, and is either a cogeneration production plant, as defined in s. 79.005 (1g), or a facility that generates electricity from direct radiant energy received from the sun.

b. If the electric provider is an electric utility that purchased the electricity, the terms and conditions of the purchase conformed with the standard purchase terms and conditions specified in the order directed to the electric utility under s. 196.379 (3) (a) that was in effect at the time of the purchase or the terms and conditions of the purchase were mutually agreed as provided under s. 196.379 (3) (b) 3.

c. The facility that generated the electricity is located in this state.

SECTION 26. 196.378 (3) (a) 1g. of the statutes is created to read:

196.378 **(3)** (a) 1g. An electric provider that exceeds a percentage required under sub. (2) (am) 2. may, in the applicable year, bank any excess biofuel credits or any portion of any excess biofuel credit, distinct from other renewable resource credits.

1 **SECTION 27.** 196.378 (3) (a) 1m. of the statutes is amended to read:

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

20 **SECTION 28.** 196.378 (3) (b) of the statutes is amended to read:

21 196.378 **(3)** (b) The commission may promulgate rules that establish
22 requirements and procedures for a sale under par. (a) ~~1.~~ 1d.

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

24 196.378 **(3)** (c) A renewable resource credit created under s. 196.378 (3) (a),
25 2003 stats., may not be used after December 31, 2011. A renewable resource credit

created under par. (a) ~~1.,~~ 1d., 1f., 1m., or 2. may not be used after the 4th year after the year in which the credit is created, except the commission may promulgate rules specifying a different period of time if the commission determines that such period is necessary for consistency with any regional renewable resource credit trading program that applies in this state.

SECTION 30. 196.378 (4m) (a) of the statutes is amended to read:

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

SECTION 31. 196.379 of the statutes is created to read:

196.379 Electric utility purchases of renewable energy. (1) DEFINITIONS. In this section:

(a) "Electric utility" has the meaning given in s. 196.378 (1) (d).

(b) "Large electric utility" means an electric utility that had retail electric sales in 2013 of 2,500,000 megawatt hours or more.

(c) "Renewable energy" means electricity derived from a renewable facility.

(d) "Renewable facility" means an electric generating facility that is a small–scale facility and that derives energy from any of the following:

1. Photovoltaic energy.

2. Wind power.

3. Gas made from a renewable resource.

1 4. Any other renewable resource specified by rule by the commission.

2 (e) "Renewable resource" has the meaning given in s. 196.374 (1) (j).

3 (f) "Renewable resource credit" has the meaning given in s. 196.378 (1) (i).

4 (g) "Small electric utility" means an electric utility that had retail electric sales
5 in 2013 of less than 2,500,000 megawatt hours.

6 **(2)** PURPOSE. The purpose of this section is to maximize the development and
7 deployment of distributed renewable energy generation technologies used at
8 renewable facilities without unreasonable impacts on electric utility rates.

9 **(3)** ORDERS. (a) *Generally.* Except as provided in par. (b), the commission shall
10 issue an order directed to each electric utility requiring the electric utility to offer to
11 purchase, under standard purchase terms and other conditions specified in the
12 order, the renewable energy generated at renewable facilities within the electric
13 utility's service territory that are constructed after the effective date of the order.

14 (b) *Exemptions.* 1. 'Small electric utilities'. In an order under par. (a) directed
15 to a small electric utility, the commission may provide that the small electric utility
16 is not required to purchase renewable energy generated at particular types of
17 renewable facilities specified in the order.

18 2. 'Large electric utilities'. If the commission finds that a large electric utility's
19 voluntary initiatives are consistent with the purpose of this section, the commission
20 may do any of the following:

21 a. Exempt the large electric utility from the requirement under par. (a).

22 b. In an order under par. (a) directed to the large electric utility, provide that
23 the large electric utility is not required to purchase renewable energy generated at
24 particular types of renewable facilities specified in the order.

1 3. 'Agreements'. Notwithstanding par. (a), an electric utility may purchase
2 renewable energy generated at a renewable facility under terms and conditions that
3 differ from those specified in an order under par. (a) directed at the electric utility
4 if the electric utility and owner or operator of the renewable facility mutually agree
5 to the terms and conditions.

6 (c) *Standard purchase terms.* An order under par. (a) directed to an electric
7 utility shall specify the standard purchase terms that apply for each type of
8 renewable facility, including terms for all of the following:

9 1. The price paid for renewable energy, based on the commission's consideration
10 of all of the following:

11 a. The cost of producing renewable energy at the type of renewable facility.

12 b. A reasonable rate of return on investment for the type of renewable facility.

13 c. The value of any renewable resource credits acquired by the electric utility
14 under sub. (6) with respect to the renewable facility.

15 d. State and federal financial incentives, including production tax credits, that
16 are available to owners or operators of the type of renewable facility.

17 2. A schedule of payments for the renewable energy over a sufficient period of
18 time to allow for recovery of the construction and operation costs for the type of
19 renewable facility.

20 3. A maximum limit on the generating capacity for the type of renewable
21 facility.

22 (d) *Other conditions.* An order under par. (a) directed to an electric utility may
23 include any of the following conditions:

24 1. Requirements for adjusting the standard purchase terms under par. (c)
25 based on changes in operating costs for a type of renewable facility.

1 2. Different prices for renewable energy generated at renewable facilities of
2 the same type that have different generating capacities.
3 3. Other conditions specified by the commission.
4 (e) *Standardized agreements.* An order under par. (a) directed to an electric
5 utility shall prescribe for each type of renewable facility a standardized agreement
6 that includes the standard purchase terms and other conditions applicable to the
7 electric utility's purchase of renewable energy from owners or operators of the type
8 of renewable facility.
9 **(4)** PURCHASE LIMITS. The commission may limit the requirement of an electric
10 utility to purchase renewable energy under an order under sub. (3) (a) if the
11 commission finds that the limit is consistent with the purpose of this section. The
12 commission may base the limit on any of the following:
13 (a) The number of renewable facilities from which the electric utility must
14 purchase renewable energy.
15 (b) The total installed generating capacity of the renewable facilities from
16 which the electric utility must purchase renewable energy.
17 (c) The total amount of renewable energy that the electric utility must
18 purchase.
19 **(5)** REVIEWS. The commission shall periodically review its orders under sub. (3)
20 (a) and, as appropriate, revise the standardized agreements prescribed in the orders
21 to change the standard purchase terms and other conditions. A revision under this
22 subsection does not apply to a standardized agreement entered into by an electric
23 utility and an owner or operator of a renewable facility before the effective date of
24 the revision.

1 **(6)** RENEWABLE RESOURCE CREDITS. An electric utility that purchases renewable
2 energy under an order under sub. (3) (a) acquires, in addition to the renewable
3 energy, the renewable resource credits associated with the generation of the
4 renewable energy, unless an agreement between the parties specifies otherwise.

5 **(7)** RULES. The commission shall promulgate rules that define "small–scale
6 facility" for purposes of sub. (1) (d).

7 **SECTION 32.** 196.491 (title) of the statutes is amended to read:

8 **196.491** (title) **Strategic energy assessment; electric generating**
9 **facilities and transmission lines; customer electric generation.**

10 **SECTION 33.** 196.491 (6) of the statutes is amended to read:

11 196.491 **(6)** WAIVER. The commission may waive compliance with any
12 requirement of ~~this section~~ subs. (2) to (5) to the extent necessary to restore service
13 which has been substantially interrupted by a natural catastrophe, accident,
14 sabotage or act of God.

15 **SECTION 34.** 196.491 (7) of the statutes is created to read:

16 196.491 **(7)** CUSTOMER ELECTRIC GENERATION. (a) In this subsection:

17 1. "Customer" means a customer whose electric generation capacity does not
18 exceed 2 megawatts.

19 2. "Electric utility" does not include a cooperative association.

20 3. "Renewable resource" has the meaning given in s. 196.374 (1) (j).

21 (b) An electric utility shall purchase electricity generated from renewable
22 resources by a customer at the following prices:

23 1. For electricity that does not exceed the amount of electricity that the electric
24 utility sells to the customer, at a price equal to the retail price the electric utility
25 charges the customer for electricity.

2. For electricity in excess of the amount of electricity that the electric utility sells to the customer, at prices set by the commission by order that reflect peak and off–peak wholesale prices in markets administered by the Midcontinent Independent System Operator, Inc. The commission shall issue orders setting prices under this subdivision on at least an annual basis.

(c) An electric utility shall pay a customer for electricity purchases required under par. (b) as follows:

1. Payments shall be based on the total amount of electricity the electric utility purchases from the customer and the total amount of electricity the electric utility sells to the customer in a year.

2. In each billing cycle in which the electric utility purchases electricity from the customer, the electric utility shall pay the customer based on the amount of electricity bought and sold in that billing cycle.

3. Annually, the electric utility shall adjust the amount paid to the customer to correct any difference in the amount due to the customer on the basis of billing cycle calculations rather than an annual calculation.

(d) The commission shall issue orders specifying requirements for electric utilities to implement the duties under this subsection. The orders shall limit annual purchases under this subsection to an amount that does not exceed one percent of annual electricity sales by all electric utilities.

SECTION 35. 196.496 (1) of the statutes is amended to read:

196.496 **(1)** DEFINITION. In this section, "distributed generation facility" means a facility for the generation of electricity with a capacity of no more than ~~15~~ 20 megawatts that is located near the point where the electricity will be used or is in a location that will support the functioning of the electric power distribution grid.

1 **SECTION 36. Nonstatutory provisions.**

2 (1) In this section:

3 (a) "Commission" means the public service commission.

4 (b) "Distributed generation facility" has the meaning given in section 196.496
5 (1) of the statutes, as affected by this act.

6 (c) "Electric public utility" has the meaning given in section 196.192 (1) of the
7 statutes.

8 (2) The commission shall review the service rules and practices of the electric
9 public utilities with regard to the connection of distributed generation facilities to
10 their electric distribution facilities and, not later than the first day of the 6th month
11 beginning after the effective date of this subsection, shall submit a report to the
12 legislature in the manner provided under section 13.172 (2) of the statutes describing
13 all the following:

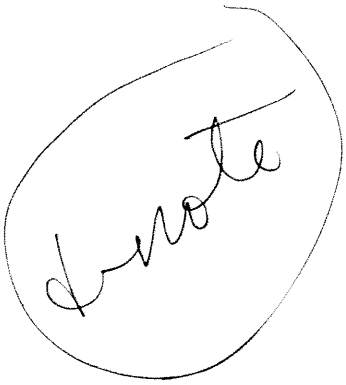
14 (a) Compliance by electric public utilities with the rules promulgated under
15 section 196.496 (2) of the statutes.

16 (b) Service rules or practices of the electric public utilities that do not violate
17 the rules promulgated under section 196.496 (2) of the statutes but that do not
18 promote or that impede the development of distributed generation facilities.

19 (3) If, in conducting the review under subsection (2), the commission identifies
20 service rules or practices of the electric public utilities that do not violate the rules
21 promulgated under section 196.496 (2) of the statutes but that do not promote or that
22 impede the development of distributed generation facilities, the commission shall
23 promulgate rules that prohibit the service rules or practices or that otherwise ensure
24 the promotion of distributed generation facilities.

1 (4) The commission shall present the statement of scope for any rules required
2 to be promulgated under subsection (3) to the governor for approval under section
3 227.135 (2) of the statutes no later than the first day of the 7th month beginning after
4 the effective date this subsection. The commission shall submit in proposed form any
5 rules required to be promulgated under subsection (3) to the legislative council staff
6 under section 227.15 (1) of the statutes no later than the first day of the 5th month
7 beginning after the governor approves the statement of scope of the rules.

8 **(END)**



DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–4351/1dn
MDK:cjs:cs

– date

Rep. Shankland:

This is a companion to LRB–4320/1.

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–4351/1dn
MDK:cjs:cs

February 27, 2014

Rep. Shankland:

This is a companion to LRB–4320/1.

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Parisi, Lori

From: Rep.Shankland
Sent: Thursday, February 27, 2014 11:19 AM
To: LRB.Legal
Subject: Draft Review: LRB -4351/1 Topic: Renewable portfolio standards, renewable tariffs, and distributed generation.

Please Jacket LRB -4351/1 for the ASSEMBLY.