

1977 Assembly Bill 1019

Date published: May 13, 1978

**CHAPTER 313, Laws of 1977**  
(Vetoed in Part)

AN ACT to create 20.835 (2) (e), 71.04 (16), 71.09 (12), 73.03 (14) and 79.25 (8m) of the statutes, relating to tax credits and deductions for alternative energy systems, making an appropriation and granting rule-making authority.

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

**SECTION 1. Declaration of policy.** The legislature finds that it is in the interest of the state to use renewable, in-state sources of energy which do not pollute the environment and which diversify the supplies of energy now used in this state. Furthermore, since the long-term advantages to society of many alternative sources of energy are often not reflected in the costs of these sources, the legislature declares that the expedient development of alternative sources of energy not now economically competitive should be fostered by providing temporary state financial incentives, supplementary to federal incentives, which encourage the use of such sources.

**SECTION 2.** 20.835 (2) (e) of the statutes is created to read:

20.835 (2) (e) *Alternative energy system tax credit.* A sum sufficient to pay the aggregate claims approved under s. 71.09 (12).

**SECTION 3.** 71.04 (16) of the statutes is created to read:

71.04 (16) (a) All expenses for designing, constructing and installing an alternative energy system, as defined in s. 71.09 (12) (i), which are incurred after April 20, 1977, may be deducted in the year paid, may be depreciated or may be amortized over a period of 5 years. Only an alternative energy system which is installed and which is certified in accordance with the procedure specified in s. 71.09 (12) (c) is eligible for this election. The election, once made, may not be changed.

**Vetoed  
in Part** (b) Expenses ~~incurred and~~ paid between April 20, 1977, and December 31, 1978, may be deducted in either the taxable year in which ~~incurred and~~ paid or the next taxable year.

(c) No expenses incurred after December 31, 1984, may be deducted, depreciated or amortized under par. (a).

**SECTION 4.** 71.09 (12) of the statutes is created to read:

71.09 (12) (a) Beginning with calendar year 1977 and corresponding fiscal years and thereafter, any natural person owning an alternative energy system installed on the person's property in this state may credit against income taxes due the following percentage of the total cost of the design, construction, equipment and installation of the alternative energy system, but not exceeding \$10,000 of such costs, incurred during the taxable year if such costs exceed \$500 in a single year and the system is certified under par. (c):

1. If the real property improvements on which the system is installed appeared on the local tax roll prior to April 20, 1977:

- a. For 1977 and 1978, 30%.
- b. For 1979 and 1980, 24%.
- c. For 1981 and 1982, 18%.
- d. For 1983 and 1984, 12%.

2. If the real property improvements on which the system is installed appeared on the local tax roll on or after April 20, 1977:

- a. For 1977 and 1978, 20%.
- b. For 1979 and 1980, 16%.
- c. For 1981 and 1982, 12%.
- d. For 1983 and 1984, 8%.

(b) Applications for credit under this subsection shall be made on a form prescribed by the department of revenue and attached to the applicant's state income tax return. If the allowable amount of claim under this subsection exceeds the income taxes otherwise due on the claimant's income or if there are no Wisconsin income taxes due on the claimant's income, the amount of the claim not used as an offset against income taxes shall be certified to the department of administration for payment to the claimant by check from the appropriation under s. 20.835 (2) (e). No interest shall be allowed on any payment made to a claimant under this paragraph.

(c) The department of revenue shall approve the credit in par. (a) if:

1. The alternative energy system is a specified model which has been certified by the department of industry, labor and human relations as meeting the standards specified in par. (d); or

2. Based on design calculations or other appropriate documentation, specified by the department of industry, labor and human relations by rule, and submitted by the owner of an alternative energy system, the system has been certified by the department of industry, labor and human relations as meeting the standards specified in par. (d).

(d) The department of industry, labor and human relations, in consultation with the departments of administration and revenue, shall establish by rule performance standards for alternative energy systems. The standards shall be established to:

1. Produce the maximum practical amount of energy.
2. Conform, where feasible, with national performance standards promulgated or recognized by the federal government for alternative energy systems.
3. Produce present value benefits in terms of saved energy costs in an amount not less than the total present value cost of designing, constructing and installing the alternative energy system within 25 years after installation of the system.
4. Not hamper individual development of innovative alternative energy systems.

(e) If more than one person owns an alternative energy system eligible for the credit under this subsection, such persons may divide the credit among themselves as desired. Once credit is claimed for an alternative energy system under this section, subsequent owners of the system are not eligible for credit under this subsection for the same system.

(f) No credit may be granted under this subsection if tax credit has been granted for the alternative energy system as an improvement under s. 79.25.

(g) Expenses incurred between April 20, 1977, and December 31, 1978, may be used to compute the credit in either the taxable year in which incurred or the next taxable year.

(h) No person may claim the credit under this subsection for expenses incurred before April 20, 1977, or after December 31, 1984.

(i) In this subsection:

1. "Alternative energy system" means a solar energy system, a waste conversion energy system or a wind energy system, but does not include any equipment which would be present as part of a conventional energy system.

2. "Solar energy system" means equipment which converts and then transfers or stores solar energy into usable forms of energy for space heating or cooling, crop drying, electricity generation or hot water heating.

3. "Waste conversion energy system" means equipment which converts wastes into usable forms of energy but does not include solid fuel-consuming devices used for residential purposes.

4. "Wind energy system" means equipment which converts and then transfers or stores energy from the wind into usable forms of energy.

(j) *Approval of rules.* This paragraph does not apply to emergency rules adopted under s. 227.027.

1. "Role of legislative council." Prior to any public hearing on a proposed rule under this subsection, or if no public hearing is required, prior to notification of the standing committees, the department of industry, labor and human relations or the department of revenue shall submit the proposed rule to the legislative council for review. The legislative council shall act as a clearing house for rule drafting and cooperate with the departments and the revisor to:

a. Review the statutory authority under which the department intends to adopt the rule. The legislative council shall notify the department, the joint committee for the review of administrative rules and the appropriate standing committee when the statutory authority is eliminated or significantly changed by repeal, amendment, court decision or for any other reason.

b. Ensure that the procedures for the promulgation of a rule required by this chapter are followed.

c. Review proposed rules for form, style and placement in the administrative code.

d. Review proposed rules to avoid conflict with or duplication of existing rules.

e. Review proposed rules to provide adequate references to relevant statutes, related rules and forms.

f. Streamline and simplify the rule-making process.

g. Review proposed rules for clarity, grammar and punctuation and to ensure plain language.

h. Review proposed rules to determine potential conflicts and to make comparisons with federal regulations.

2. "Legislative council to assist standing committees." The legislative council shall work with and assist the appropriate standing committees throughout the rule-making process. The legislative council may issue recommendations concerning any proposed rule which the department submits under this section.

3. "Notification of standing committees." The department shall notify appropriate standing committees when proposed rules under this subsection are in final draft form by submitting a notice to the presiding officer in each house. Each presiding officer shall refer the notice to one standing committee. The department may withdraw a proposed rule by notifying the presiding officer in each house of the legislature of its intention not to promulgate the rule.

4. "Form of notice." The notice shall include the proposed rule in a form complying with s. 227.024 (1).

5. "Standing committee review." a. A committee may be convened upon the call of its chairperson or a majority of its members to review a proposed rule. A committee may meet separately or jointly with the other committee to which the notice is referred, direct the department to attend the meeting and hold public hearings to review the proposed rule.

b. The standing committee review period lasts for 30 days after the notice is submitted and if within the 30-day period a standing committee directs the department to meet with it to review the proposed rule, the standing committee review period is extended for 30 days from the date of that request.

c. The department may not promulgate a proposed rule during the standing committee review period unless both committees approve the rule prior to the expiration of that period.

d. Either standing committee may disapprove the proposed rule or part of a proposed rule by taking action in executive session to disapprove the rule within the standing committee review period. If both committees fail to take this action, the proposed rule is not disapproved and the department may promulgate the rule.

6. "Joint committee for the review of administrative rules." a. If either standing committee disapproves a proposed rule or part of a proposed rule, the proposed rule or its part shall be referred to the joint committee for the review of administrative rules.

b. The joint committee review period lasts for 30 days after the proposed rule is referred and the joint committee shall meet and take action in executive session during that period.

c. The department may not promulgate a proposed rule or its part which is disapproved by a standing committee unless the proposed rule is approved by the joint committee for the review of administrative rules or until the bill in subd. 6. e fails of enactment. The department may promulgate portions of the rule which were not suspended, if the committee disapproved only parts of the rules.

d. The joint committee for the review of administrative rules may reverse the standing committee disapproval by taking action to approve the rule within the joint committee review period. The joint committee may uphold the standing committee disapproval by taking action to disapprove the rule within the joint committee review period. The joint committee may remand the proposed rule to the department for further consideration or public hearings or both. If the joint committee disapproves a proposed rule, the department may not promulgate the proposed rule until the bill in subd. 6. e fails of enactment.

e. When the joint committee for the review of administrative rules disapproves a proposed rule or portion of the proposed rule, the committee shall as soon as possible place before the legislature, a bill to support the disapproval. If such bill is defeated, or fails of enactment in any other manner, the proposed rule or portion of the proposed rule may be promulgated. If the bill becomes law, the proposed rule or portion of the proposed rule, may not be promulgated unless a properly enacted law specifically authorizes the adoption of that rule.

SECTION 5. 73.03 (14) of the statutes is created to read:

73.03 (14) (a) In cooperation with the department of administration and the university of Wisconsin system-extension, to develop materials to inform the public of the income tax credits and deductions for alternative energy systems available under ss. 71.04 (16) and 71.09 (12). Such material shall include information on the calculation of the life-cycle costs of alternative energy systems.

(b) To annually prepare a summary of the number of claims under ss. 71.04 (16) and 71.09 (12), including but not limited to information concerning the cost, size and type of each alternative energy system for which a deduction or credit is claimed.

SECTION 6. 79.25 (8m) of the statutes is created to read:

79.25 (8m) Improvements for which credit has been granted under s. 71.09 (12) are not eligible for credit under this section.

SECTION 7. **Program responsibilities.** (1) In the list of program responsibilities specified for the department of industry, labor and human relations in section 15.221 (intro.) of the statutes, reference to sections "71.04 (16)" and "71.09 (12)" is inserted.

(2) In the list of program responsibilities specified for the department of administration in section 15.101 (intro.), references to sections "71.04 (16)", "71.09 (12)" and "73.03 (14)" are inserted.

SECTION 8. **Rules.** The department of industry, labor and human relations shall promulgate the rules required by section 71.09 (12) (d) of the statutes, as created by this act, no later than January 1, 1979.

---