



## 2003 ASSEMBLY BILL 774

January 28, 2004 - Introduced by Representatives JENSEN, GOTTLIEB, NISCHKE, M. LEHMAN, STEINBRINK, OWENS, GRONEMUS, HAHN, ALBERS, JESKEWITZ, SERATTI, HUNDERTMARK, MCCORMICK, PETROWSKI, HINES, VAN ROY, LEMAHIEU, WEBER and VRAKAS, cosponsored by Senators COWLES, KANAVAS and KEDZIE. Referred to Committee on Energy and Utilities.

1     **AN ACT** *to repeal* 76.28 (9), 79.005 (4) and 79.04 (3m); *to amend* 16.969 (2) (a),  
2           70.112 (4) (a), 76.48 (1r), 79.04 (1) (intro.), 79.04 (1) (a), 79.04 (1) (b) 2., 79.04  
3           (1) (c) 1., 79.04 (1) (c) 2., 79.04 (1) (c) 3., 79.04 (2) (a), 79.04 (2) (am) 2., 79.04 (2)  
4           (b), 79.04 (6) (a) and 196.491 (3) (gm); and *to create* 70.112 (4) (am), 76.28 (3)  
5           (e) and 76.48 (3d) of the statutes; **relating to:** public utility aid payments,  
6           imposing local general property taxes on production plant general structures  
7           and substations, and creating a credit against license fees imposed on light,  
8           heat, and power companies and electric cooperatives.

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### *Analysis by the Legislative Reference Bureau*

Under current law, beginning in 2005, each county and municipality in which a power production plant is located receives a state aid payment based on the net book value of the production plant, for production plants that, generally, began operation before January 1, 2004, or based on the production plant's megawatt capacity, for production plants that began operation after December 31, 2003. Under this bill, beginning in 2005, each county and municipality in which a power production plant is located will receive a state aid payment based on the production plant's megawatt capacity, except that, if the production plant is a hydroelectric plant or a wind farm, the county and municipality will receive a payment based on

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the net book value of the hydroelectric plant or wind farm. In addition, under current law, for a hydroelectric plant or wind farm that is built after December 31, 2003, the county and municipality in which the plant or wind farm is located will receive an additional payment, beginning in 2005, based on the megawatt capacity of the plant or wind farm.

Under current law, generally, the property of a light, heat, and power company and an electric cooperative association, including general structures and substations, is exempt from the imposition of local general property taxes, if the company or association is subject to license fees. Under this bill, beginning with the property tax assessments as of January 1, 2005, the general structures of such companies and associations are subject to local general property taxes. In addition, beginning with the property tax assessments as of January 1, 2006, the substations of such companies and associations, other than transmission companies, are subject to local general property taxes. However, beginning with license fees that are due in May 2006, light, heat, and power companies and electric cooperative associations may claim as a credit against their license fee liability an amount equal to the amount of the property taxes that the company or association paid in the calendar year on general structures and substations.

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

Finally, the bill requires the Department of Revenue to submit a proposal to the legislature, no later than December 31, 2004, regarding imposing local general property taxes on all property of electric cooperatives and light, heat, and power companies beginning with the property tax assessments as of January 1, 2007.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 16.969 (2) (a) of the statutes is amended to read:

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

5           **SECTION 2.** 70.112 (4) (a) of the statutes is amended to read:

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

15           **SECTION 3.** 70.112 (4) (am) of the statutes is created to read:

16           70.112 (4) (am) 1. Beginning with the property tax assessments as of January  
17 1, 2005, the general structure of a light, heat, and power company taxed under s.  
18 76.28 or an electric cooperative association is subject to general property taxes.

19           2. Beginning with the property tax assessments as of January 1, 2006, a  
20 substation of a light, heat, and power company taxed under s. 76.28 or an electric  
21 cooperative association is subject to general property taxes, except that this  
22 subdivision does not apply to a substation of a transmission company, as defined in  
23 s. 196.485 (1) (ge).

24           **SECTION 4.** 76.28 (3) (e) of the statutes is created to read:

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1           76.28 **(3)** (e) Beginning with calendar year 2006, a light, heat, and power  
2 company may claim as a credit against the fees imposed under sub. (2) an amount  
3 equal to the amount of property taxes imposed under ch. 70 on general structures and  
4 substations that the light, heat, and power company paid in the calendar year. A  
5 light, heat, and power company that claims the credit under this paragraph shall  
6 subtract the amount of the credit from the license fee payment that is due on or before  
7 May 10.

8           **SECTION 5.** 76.28 (9) of the statutes is repealed.

9           **SECTION 6.** 76.48 (1r) of the statutes is amended to read:

10           76.48 **(1r)** Except as provided in s. 76.29, every electric cooperative shall pay,  
11 in lieu of ~~other general property and income or franchise taxes~~, an annual license fee  
12 equal to its apportionment factor multiplied by its gross revenues; excluding for the  
13 tax period, as defined in s. 76.29 (1) (f), gross revenues that are subject to the license  
14 fee under s. 76.29; multiplied by 3.19%. ~~Real~~ Subject to s. 70.112 (4) (a) and (am), real  
15 estate and personal property not used primarily for the purpose of generating,  
16 transmitting or distributing electric energy are subject to general property taxes. ~~If~~  
17 ~~a general structure is used in part to generate, transmit or distribute electric energy~~  
18 ~~and in part for nonoperating purposes, the license fee imposed by this section is in~~  
19 ~~place of the percentage of all other general property taxes that fairly measures and~~  
20 ~~represents the extent of the use in generating, transmitting or distributing electric~~  
21 ~~energy, and the balance is subject to local assessment and taxation, except that the~~  
22 ~~entire general structure is subject to special assessments for local improvements.~~

23           **SECTION 7.** 76.48 (3d) of the statutes is created to read:

24           76.48 **(3d)** Beginning with calendar year 2006, an electric cooperative may  
25 claim as a credit against the fees imposed under sub. (1r) an amount equal to the

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1 amount of property taxes imposed under ch. 70 on general structures and  
2 substations that the electric cooperative paid in the calendar year. An electric  
3 cooperative that claims the credit under this subsection shall subtract the amount  
4 of the credit from the license fee payment that is due on or before May 10.

5 **SECTION 8.** 79.005 (4) of the statutes, as created by 2003 Wisconsin Act 31, is  
6 repealed.

7 **SECTION 9.** 79.04 (1) (intro.) of the statutes, as affected by 2003 Wisconsin Act  
8 31, is amended to read:

9 79.04 (1) (intro.) Annually, ~~except for production plants that begin operation~~  
10 ~~after December 31, 2003, or begin operation as a repowered production plant after~~  
11 ~~December 31, 2003,~~ the department of administration, upon certification by the  
12 department of revenue, shall distribute to a municipality having within its  
13 boundaries a hydroelectric production plant, ~~general structure, or substation or wind~~  
14 farm, used by a light, heat, or power company assessed under s. 76.28 (2) or 76.29 (2),  
15 except property described in s. 66.0813 unless the hydroelectric production plant or  
16 ~~substation~~ wind farm is owned or operated by a local governmental unit located  
17 outside of the municipality, or by an electric cooperative assessed under ss. 76.07 and  
18 76.48, respectively, or by a municipal electric company under s. 66.0825 the amount  
19 determined as follows:

20 **SECTION 10.** 79.04 (1) (a) of the statutes, as affected by 2003 Wisconsin Acts 31  
21 and 33, is amended to read:

22 79.04 (1) (a) An amount from the shared revenue account ~~or, for the~~  
23 ~~distribution in 2003, from the appropriation under s. 20.835 (1) (t)~~ determined by  
24 multiplying by 3 mills in the case of a town, and 6 mills in the case of a city or village,  
25 the first \$125,000,000 of the amount shown in the account attributable to a

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1 hydroelectric plant or wind farm, plus leased property, of each public utility except  
2 qualified wholesale electric companies, as defined in s. 76.28 (1) (gm), on December  
3 31 of the preceding year for “production plant, exclusive of land,” “~~general~~  
4 ~~structures,~~” and “~~substations,~~” in the case of light, heat and power companies,  
5 electric cooperatives or municipal electric companies, for all property within a  
6 municipality in accordance with the system of accounts established by the public  
7 service commission or rural electrification administration, less depreciation thereon  
8 as determined by the department of revenue and less the value of treatment plant  
9 and pollution abatement equipment, as defined under s. 70.11 (21) (a), as determined  
10 by the department of revenue plus an amount from the shared revenue account ~~or,~~  
11 ~~for the distribution in 2003, from the appropriation under s. 20.835 (1) (t) determined~~  
12 ~~by multiplying by 3 mills in the case of a town, and 6 mills in the case of a city or~~  
13 ~~village, of the first \$125,000,000 of the total original cost of a hydroelectric~~  
14 ~~production plant, ~~general structures, and substations~~ or wind farm, less~~  
15 depreciation, land and approved waste treatment facilities of each qualified  
16 wholesale electric company, as defined in s. 76.28 (1) (gm), as reported to the  
17 department of revenue of all property within the municipality. The total of amounts,  
18 as depreciated, from the accounts of all public utilities for the same hydroelectric  
19 production plant or wind farm is also limited to not more than \$125,000,000. The  
20 amount distributable to a municipality under this subsection and sub. (6) in any year  
21 shall not exceed \$300 times the population of the municipality.

22 **SECTION 11.** 79.04 (1) (b) 2. of the statutes, as affected by 2003 Wisconsin Act  
23 31, is amended to read:

24 79.04 (1) (b) 2. When a light, heat or power company no longer uses property  
25 described under par. (a) as a hydroelectric production plant, ~~substation, or general~~

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1 ~~structure or wind farm~~ in a municipality, the amount established under subd. 1. shall  
2 be reduced by the proportion that the property that is no longer used bears to the total  
3 value of all property described in par. (a) in the municipality. The proportion shall  
4 be determined according to the proportional value of the property when the light,  
5 heat or power company stops using the property.

6 **SECTION 12.** 79.04 (1) (c) 1. of the statutes, as affected by 2003 Wisconsin Act  
7 31, is amended to read:

8 79.04 (1) (c) 1. The payment for any municipality in which a hydroelectric  
9 production plant or wind farm is located, which the public service commission  
10 certifies to the department of revenue will produce a nominal rated capacity of 200  
11 megawatts or more, shall be no less than \$75,000 annually, except that the amount  
12 distributable to a municipality in any year shall not exceed the per capita limit  
13 specified in par. (a).

14 **SECTION 13.** 79.04 (1) (c) 2. of the statutes is amended to read:

15 79.04 (1) (c) 2. If a hydroelectric production plant or wind farm is located in  
16 more than one municipality, the total payment under subd. 1. shall be apportioned  
17 according to the amounts shown on the preceding December 31 for the hydroelectric  
18 production plant or wind farm in the account described in par. (a) for “production  
19 plant exclusive of land” within each municipality for all public utilities except  
20 qualified wholesale electric companies, as defined in s. 76.28 (1) (gm), or according  
21 to the value as reported to the department of revenue under par. (a) of the  
22 hydroelectric production plant or wind farm within each municipality for each  
23 qualified wholesale electric company. The payment to each municipality under this  
24 subdivision shall be no less than \$15,000 annually.

**ASSEMBLY BILL 774****SECTION 14**

1           **SECTION 14.** 79.04 (1) (c) 3. of the statutes, as affected by 2003 Wisconsin Act  
2 31, is amended to read:

3           79.04 (1) (c) 3. If a hydroelectric production plant or wind farm with a nominal  
4 rated capacity of 200 megawatts or more is decommissioned or becomes nonutility  
5 property, the \$75,000 minimum guaranteed payment under subd. 1. shall continue  
6 but diminish by \$7,500 annually, except that the minimum guaranteed payment  
7 under this subdivision shall cease in the year following the first year in which the  
8 property becomes taxable by the taxation district. In this subdivision, “nonutility  
9 property” has the meaning set forth in the uniform system of accounts established  
10 by the public service commission. This subdivision does not apply after the  
11 distributions in 2004.

12           **SECTION 15.** 79.04 (2) (a) of the statutes, as affected by 2003 Wisconsin Acts 31  
13 and 33, is amended to read:

14           79.04 (2) (a) ~~Annually, except for production plants that begin operation after~~  
15 ~~December 31, 2003, or begin operation as a repowered production plant after~~  
16 ~~December 31, 2003,~~ the department of administration, upon certification by the  
17 department of revenue, shall distribute from the shared revenue account ~~or, for the~~  
18 ~~distribution in 2003, from the appropriation under s. 20.835 (1) (t) to any county~~  
19 having within its boundaries a hydroelectric production plant, ~~general structure, or~~  
20 ~~substation~~ or wind farm, used by a light, heat or power company assessed under s.  
21 76.28 (2) or 76.29 (2), except property described in s. 66.0813 unless the hydroelectric  
22 production plant or ~~substation~~ wind farm is owned or operated by a local  
23 governmental unit that is located outside of the municipality in which the  
24 hydroelectric production plant or ~~substation~~ wind farm is located, or by an electric  
25 cooperative assessed under ss. 76.07 and 76.48, respectively, or by a municipal



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1 electric company under s. 66.0825 an amount determined by multiplying by 6 mills  
2 in the case of property in a town, and by 3 mills in the case of property in a city or  
3 village, the first \$125,000,000 of the amount shown in the account attributable to a  
4 hydroelectric production plant or wind farm, plus leased property, of each public  
5 utility except qualified wholesale electric companies, as defined in s. 76.28 (1) (gm),  
6 on December 31 of the preceding year for “production plant, exclusive of land,”  
7 ~~“general structures,” and “substations,”~~ in the case of light, heat and power  
8 companies, electric cooperatives or municipal electric companies, for all property  
9 within the municipality in accordance with the system of accounts established by the  
10 public service commission or rural electrification administration, less depreciation  
11 thereon as determined by the department of revenue and less the value of treatment  
12 plant and pollution abatement equipment, as defined under s. 70.11 (21) (a), as  
13 determined by the department of revenue plus an amount from the shared revenue  
14 account ~~or, for the distribution in 2003, from the appropriation under s. 20.835 (1)~~  
15 ~~(t)~~ determined by multiplying by 6 mills in the case of property in a town, and 3 mills  
16 in the case of property in a city or village, of the total original cost of a hydroelectric  
17 production plant, general structures, and substations or wind farm, less  
18 depreciation, land and approved waste treatment facilities of each qualified  
19 wholesale electric company, as defined in s. 76.28 (1) (gm), as reported to the  
20 department of revenue of all property within the municipality. The total of amounts,  
21 as depreciated, from the accounts of all public utilities for the same hydroelectric  
22 production plant or wind farm is also limited to not more than \$125,000,000. The  
23 amount distributable to a county under this subsection and sub. (6) in any year shall  
24 not exceed \$100 times the population of the county.

**ASSEMBLY BILL 774****SECTION 16**

1           **SECTION 16.** 79.04 (2) (am) 2. of the statutes, as affected by 2003 Wisconsin Act  
2 31, is amended to read:

3           79.04 (2) (am) 2. When a light, heat or power company no longer uses property  
4 described under par. (a) as a hydroelectric production plant, substation, or general  
5 structure or wind farm in a county, the amount established under subd. 1. shall be  
6 reduced by the proportion that the property that is no longer used bears to the total  
7 value of all property described in par. (a) in the county. The proportion shall be  
8 determined according to the proportional value of the property when the light, heat  
9 or power company stops using the property.

10           **SECTION 17.** 79.04 (2) (b) of the statutes is amended to read:

11           79.04 (2) (b) The payment under par. (a) for any county in which a hydroelectric  
12 production plant or wind farm is located, which the public service commission  
13 certifies to the department of revenue will produce a nominal rated capacity of 200  
14 megawatts or more, shall be not less than \$75,000 annually, except that the amount  
15 distributable to a county in any year shall not exceed the per capita limit specified  
16 in par. (a).

17           **SECTION 18.** 79.04 (3m) of the statutes, as created by 2003 Wisconsin Act 31,  
18 is repealed.

19           **SECTION 19.** 79.04 (6) (a) of the statutes, as created by 2003 Wisconsin Act 31,  
20 is amended to read:

21           79.04 (6) (a) Annually, ~~beginning in 2005~~, for production plants that begin  
22 ~~operation after December 31, 2003, or begin operation as a repowered production~~  
23 ~~plant after December 31, 2003~~ are not hydroelectric production plants or wind farms,  
24 the department of administration, upon certification by the department of revenue,  
25 shall distribute payments from the public utility account, as determined under par.

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1 (b), to each municipality and county in which a production plant is located, if the  
2 production plant has a name-plate capacity of at least one megawatt and is used by  
3 a light, heat, or power company assessed under s. 76.28 (2) or 76.29 (2), except  
4 property described in s. 66.0813, unless the production plant is owned or operated  
5 by a local governmental unit located outside of the municipality; by a qualified  
6 wholesale electric company, as defined in s. 76.28 (1) (gm); by a wholesale merchant  
7 plant, as defined in s. 196.491 (1) (w); by an electric cooperative assessed under ss.  
8 76.07 and 76.48, respectively; or by a municipal electric company under s. 66.0825.

9 **SECTION 20.** 196.491 (3) (gm) of the statutes, as affected by 2003 Wisconsin Act  
10 89, is amended to read:

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

25 **SECTION 21. Nonstatutory provisions.**

