



2003 ASSEMBLY BILL 604

October 23, 2003 - Introduced by Representatives J. FITZGERALD, AINSWORTH, GROTHMAN, HAHN, HINES, HUNDERTMARK, JOHNSRUD, LEMAHIEU, M. LEHMAN, LOTHIAN, NASS, NISCHKE, OLSEN, OWENS, POWERS, SUDER, TOWNS, VAN ROY and VRAKAS, cosponsored by Senators LEIBHAM, S. FITZGERALD, BRESKE, KANAVAS, KEDZIE, A. LASEE, ROESSLER and ZIEN. Referred to Committee on Energy and Utilities.

1 **AN ACT** *to amend* 16.957 (2) (b) 1. (intro.), 16.957 (2) (c) 2., 16.957 (3) (b), 25.96
2 and 196.374 (3); and *to create* 16.957 (2m) and 196.374 (3m) of the statutes;
3 **relating to:** contributions by electric and gas utilities to the utility public
4 benefits fund, grants for energy conservation and other programs, extending
5 the time limit for emergency rule procedures, and granting rule-making
6 authority.

Analysis by the Legislative Reference Bureau

Under current law, certain electric and gas utilities are required to make contributions to the Public Service Commission (PSC) in each fiscal year. The PSC deposits the contributions in the utility public benefits fund (fund), which also consists of monthly fees paid by utility customers. The fund is used by the Department of Administration (DOA) to make grants for low-income assistance, energy conservation and efficiency, environmental research and development, and renewable resource programs. The amount that each utility must contribute to the PSC is the amount that the PSC determines that the utility spent in 1998 on its own programs that are similar to the programs awarded grants by DOA.

Under this bill, the PSC may allow a utility to retain a portion of the amount that it is required to contribute in each fiscal year under current law. However, the PSC may allow a utility to do so only if the PSC determines that the portion is used by the utility for energy conservation programs for industrial, commercial, and

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agricultural customers in the utility's service area. Also, the programs must comply with rules promulgated by the PSC. The rules must specify annual energy savings targets that the programs must be designed to achieve. The rules must also require a utility to demonstrate that, within a reasonable period of time determined by the PSC, the economic benefits of such a program will be equal to the portion of the contribution that the PSC allows the utility to retain. If the PSC allows a utility to retain such a portion, the utility must contribute 1.75% of the portion to the PSC, which the PSC must deposit in the fund for DOA to use for programs for research and development for energy conservation and efficiency. In addition, the utility must contribute 4.5% of the portion to the PSC for deposit in the fund for DOA to use for renewable resource programs. The bill also requires the PSC to allow a utility to recover in rates any expenses related to administration, marketing, or delivery of services for the utility's energy conservation programs, and prohibits a utility from paying for such expenses from the portion of a contribution the utility is allowed to retain.

The bill also requires the PSC to promulgate rules for the grants made by DOA from the fund for energy conservation and other programs. Under the bill, an applicant is not eligible for such a grant unless the applicant's proposal for the grant complies with rules promulgated by the PSC. The rules must require an applicant to demonstrate that, within a reasonable period of time determined by the PSC, the economic benefits resulting from the proposal will be equal to the amount of the grant. The rules must also specify annual energy savings targets that a such proposal must be designed to achieve.

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.** 16.957 (2) (b) 1. (intro.) of the statutes is amended to read:

2 16.957 (2) (b) 1. (intro.) Subject to subd. 2. and the rules promulgated under
3 sub. (2m), after holding a hearing, establish programs for awarding grants from the
4 appropriation under s. 20.505 (3) (s) for each of the following:

5 **SECTION 2.** 16.957 (2) (c) 2. of the statutes is amended to read:

6 16.957 (2) (c) 2. Requirements and procedures for applications for grants
7 awarded under programs established under par. (a) or (b) 1. The rules for grants

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1 awarded under programs established under par. (b) 1. may not be inconsistent with
2 the rules promulgated by the commission under sub. (2m).

3 **SECTION 3.** 16.957 (2m) of the statutes is created to read:

4 16.957 **(2m)** ENERGY CONSERVATION AND EFFICIENCY GRANTS. The commission
5 shall promulgate rules that provide that a proposal for providing energy
6 conservation or efficiency services is not eligible for a grant under sub. (2) (b) unless
7 the applicant demonstrates that, no later than a reasonable period of time, as
8 determined by the commission, after the applicant begins to implement the proposal,
9 the economic value of the benefits resulting from the proposal will be equal to the
10 amount of the grant. The rules shall also specify annual energy savings targets that
11 a such proposal must be designed to achieve in order for the proposal to be eligible
12 for a grant under sub. (2) (b).

13 **SECTION 4.** 16.957 (3) (b) of the statutes is amended to read:

14 16.957 **(3)** (b) The department shall, on the basis of competitive bids, contract
15 with one or more nonstock, nonprofit corporations organized under ch. 181 to
16 administer the programs established under sub. (2) (b) 1., including soliciting
17 proposals, processing grant applications, selecting, based on criteria specified in
18 rules promulgated under sub. (2) (c) 2m. and the standards established in the rules
19 promulgated under sub. (2m), proposals for the department to make awards and
20 distributing grants to recipients.

21 **SECTION 5.** 25.96 of the statutes is amended to read:

22 **25.96 Utility public benefits fund.** There is established a separate
23 nonlapsible trust fund designated as the utility public benefits fund, consisting of
24 deposits by the public service commission under s. 196.374 (3) and (3m), public

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1 benefits fees received under s. 16.957 (4) (a) and (5) (c) and (d) and contributions
2 received under s. 16.957 (2) (c) 4. and (d) 2.

3 **SECTION 6.** 196.374 (3) of the statutes is amended to read:

4 196.374 (3) In 2000, 2001 and 2002, the commission shall require each utility
5 to spend a decreasing portion of the amount determined under sub. (2) on programs
6 specified in sub. (2) and contribute the remaining portion of the amount to the
7 commission for deposit in the fund. ~~In~~ Except as provided in sub. (3m), in each year
8 after 2002, each utility shall contribute the entire amount determined under sub. (2)
9 to the commission for deposit in the fund. The commission shall ensure in
10 rate-making orders that a utility recovers from its ratepayers the amounts spent on
11 programs or contributed to the fund under this subsection or retained under sub.
12 (3m). The commission shall allow each utility the option of continuing to use, until
13 January 1, 2002, the moneys that it has recovered under s. 196.374 (3), 1997 stats.,
14 to administer the programs that it has funded under s. 196.374 (1), 1997 stats. The
15 commission may allow each utility to spend additional moneys on the programs
16 specified in sub. (2) if the utility otherwise complies with the requirements of this
17 section and s. 16.957 (4).

18 **SECTION 7.** 196.374 (3m) of the statutes is created to read:

19 196.374 (3m) (a) In each fiscal year, the commission may allow a utility to
20 retain a portion of the amount determined under sub. (2) instead of contributing the
21 entire amount to the commission, if the commission determines that the portion is
22 used by the utility for energy conservation programs for industrial, commercial, and
23 agricultural customers in the utility's service area and that the programs comply
24 with rules promulgated by the commission. The rules shall specify annual energy
25 savings targets that the programs must be designed to achieve. The rules shall also

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1 require a utility to demonstrate that, no later than a reasonable period of time, as
2 determined by the commission, after the utility implements a program, the economic
3 value of the benefits resulting from the program will be equal to the portion that the
4 utility is allowed to retain under this paragraph.

5 (b) If the commission allows a utility to retain a portion under par. (a), the
6 utility must contribute 1.75% of the portion to the commission for deposit in the fund
7 for programs for research and development for energy conservation and efficiency
8 and must contribute 4.5% of the portion to the commission for deposit in the fund for
9 renewable resource programs.

10 (c) The commission shall allow a utility to recover in rates any expenses related
11 to administration, marketing, or delivery of services for programs specified in par.

12 (a). A utility may not pay for such expenses from any portion of a contribution the
13 utility is allowed to retain under par. (a).

SECTION 8. Nonstatutory provisions.

14 (1) EMERGENCY RULES. Using the procedure under section 227.24 of the statutes,
15 the public service commission shall promulgate as emergency rules the rules
16 required under section 16.957 (2m) of the statutes, as created by this act.
17 Notwithstanding section 227.24 (1) (c) and (2) of the statutes, the emergency rules
18 promulgated under this subsection may remain in effect until the date on which the
19 permanent rules required under section 16.957 (2m) of the statutes, as created by
20 this act, take effect. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the
21 statutes, the public service commission is not required to provide evidence that
22 promulgating rules under this subsection as emergency rules is necessary for the
23 preservation of the public peace, health, safety, or welfare and is not required to
24 provide a finding of emergency for the rules promulgated under this subsection.
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