

**1999 DRAFTING REQUEST**

**Bill**

Received: **03/21/2000**

Received By: **jkreye**

Wanted: **Soon**

Identical to LRB:

For: **Bonnie Ladwig (608) 266-9171**

By/Representing: **janine**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Alt. Drafters:

Subject: **Tax - utilities**

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

License fees based on the sales of wholesale electricity

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 03/21/2000	csicilia 03/21/2000		_____			S&L
/1			jfrantze 03/21/2000	_____	lrb-docadmin 03/21/2000	lrb-docadmin 03/22/2000	

FE Sent For:

<END>

↪ 03-24-00

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1?	jkreye	1 cjs	3/21 00	6/3/01	6/3/01		

FE Sent For:

<END>

**Kreye, Joseph**

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**From:** Hale, Janine  
**Sent:** Tuesday, March 21, 2000 11 :01 AM  
**To:** Kreye, Joseph  
**Subject:** Assembly Companion to LRB 4483/2

Rep. **Ladwig** would like to request a draft of an Assembly companion bill to LRB 4483/2 requested by Sen. **Wirch**. This legislation relates to license fees based on the sale of wholesale electricity.

Thank you,

Janine Hale

*Janine Hale, Chief of Staff  
Office of Representative Bonnie **Ladwig**  
113 West, State Capitol  
P. O. Box 8952  
Madison, WI 53708  
(608)266-9171  
janine.hale@legis.state.wi.us*

\*If you are not the appropriate drafter, please forward on. Thank you.

4799/1

**1999 SENATE BILL**

m 3-21-2000

500N

1 **AN ACT to amend 76.025 (2), 76.28 (2) (a), 76.48 (1r), 79.04 (1) (a), 79.04 (1) (c)**  
2 **2. and 79.04 (2) (a); and to create 76.29 of the statutes; relating to:** license fees  
3 based on the sale of wholesale electricity

**Analysis by the Legislative Reference Bureau**

Under current law, in lieu of paying local property taxes, a private light, heat and power company and an electric cooperative pay a license fee to the state based on a percentage of the company's or cooperative's gross revenues that are attributable to this state. A private light, heat and power company pays a license fee based, in part, on multiplying its gross revenues from the sale of gas services by 0.97 percent and multiplying its other gross revenues by 3.19 percent. An electric cooperative pays a license fee based, in part, on multiplying its gross revenues by 3.19 percent.

Under the bill, a private light, heat and power company and an electric cooperative pay a license fee to the state based, in part, on multiplying the company's or cooperative's gross revenues from the sale of wholesale electricity by 1.59 percent. **The** license fee applies to gross revenues from the sale of wholesale electricity that are earned during tax periods beginning on July 1, 2002, and ending on June 30, 2008. A private light, heat and power company will continue to pay a license fee under current law based on multiplying its gross revenues from the sale of gas services by 0.97 percent and multiplying its other gross revenues, except revenues from the sale of wholesale electricity, by 3.19 percent. An electric cooperative will continue to pay a license fee under current law based on multiplying its gross revenues, except revenues from the sale of wholesale electricity, by 3.19 percent.



**SENATE BILL**

1 (a) "Apportionment factor" has the meaning given in s. 76.28 (1) (a).

2 (b) "Department" means the department of revenue.

3 (c) "Electric cooperative" has the meaning given in s. 76.48 (1g) (c).

4 (d) "Gross revenues" means total revenues from the sale of electricity for resale  
5 by the purchaser of the electricity.

6 (e) "Light, heat and power companies" has the meaning given in s. 76.28 (1) (e).

7 (f) "Tax period" means each calendar year or portion of a calendar year from  
8 July 1, 2002, to June 30, 2008.

9 (2) **IMPOSITION.** There is imposed on every light, heat and power company and  
10 electric cooperative that owns an electric utility plant, an annual license fee to be  
11 assessed by the department on or before May 1, 2003, and every May 1 thereafter,  
12 ending with the assessment on May 1, 2009, measured by the gross revenues of the  
13 preceding tax period in an amount equal to the apportionment factor multiplied by  
14 1.59%. The fee shall become delinquent if not paid when due and when delinquent  
15 shall be subject to interest at the rate of 1.5% per month until paid.

16 (3) **PAYMENTS.** The department shall promulgate rules, in substantial  
17 conformity with s. 76.28 (3), providing for the payment of the fee imposed under sub.  
18 (2) on an estimated basis.

19 (4) **ADMINISTRATION.** Section 76.28 (4) to (11), as it applies to the fee imposed  
20 under section 76.28 (2), applies to the fee imposed under this section.

21 **SECTION 4.** 76.48 (1r) of the statutes is amended to read:

22 76.48 (1r) Every **Except as provided in s. 76.29. every** electric cooperative shall  
23 pay, in lieu of other general property and income or franchise taxes, an annual license  
24 fee equal to its apportionment factor multiplied by its gross revenues, excluding  
25 gross revenues under s. 76.29, multiplied by 3.19%. Real estate and personal

**SENATE BILL**

1 property not used primarily for the purpose of generating, transmitting or  
2 distributing electric energy are subject to general property taxes. If a general  
3 structure is used in part to generate, transmit or distribute electric energy and in  
4 part for nonoperating purposes, the license fee imposed by this section is in place of  
5 the percentage of all other general property taxes that fairly measures and  
6 represents the extent of the use in generating, transmitting or distributing electric  
7 energy, and the balance is subject to local assessment and taxation, except that the  
8 entire general structure is subject to special assessments for local improvements.

9           SECTION 5. 79.04 (1) (a)<sup>^</sup> of the statutes is amended to read:

10           79.04 (1) (a) An amount from the shared revenue account determined by  
11 multiplying by 3 mills in the case of a town, and 6 mills in the case of a city or village,  
12 the first \$125,000,000 of the amount shown in the account, plus leased property, of  
13 each public utility except qualified wholesale electric companies, as defined in s.  
14 76.28 (1) (gm), ~~and except wholesale merchant plants, as defined ins. 196.491 (1) (w),~~  
15 on December 31 of the preceding year for either "production plant, exclusive of land"  
16 and "general structures", or "work in progress" for production plants and general  
17 structures under construction, in the case of light, heat and power companies,  
18 electric cooperatives or municipal electric companies, for all property within a  
19 municipality in accordance with the system of accounts established by the public  
20 service commission or rural electrification administration, less depreciation thereon  
21 as determined by the department of revenue and less the value of treatment plant  
22 and pollution abatement equipment, as defined under s. 70.11 (21) (a), as determined  
23 by the department of revenue plus an amount from the shared revenue account  
24 determined by multiplying by 3 mills in the case of a town, and 6 mills in the case  
25 of a city or village, of the first \$125,000,000 of the total original cost of production



## SENATE BILL

1 plant, general structures and work-in-progress less depreciation, land and  
2 approved waste treatment facilities of each qualified wholesale electric company, as  
3 defined in s. 76.28 (1) (gm), and each wholesale merchant plant, as defined in s.  
4 196.491 (1)(w), as reported to the department of revenue of all property within the  
5 municipality The total of amounts, as depreciated, from the accounts of all public  
6 utilities for the same production plant is also limited to not more than \$125,000,000.  
7 The amount distributable to a municipality in any year shall not exceed \$300 times  
8 the population of the municipality

9 SECTION 6. 79.04 (1) (c) <sup>^</sup>2. of the statutes is amended to read:

10 79.04 (1) (c) 2. If a production plant is located in more than one municipality,  
11 the total payment under subd. 1. shall be apportioned according to the amounts  
12 shown on the preceding December 31 for the production plant in the account  
13 described in par. (a) for “production plant exclusive of land” within each municipality  
14 for all public utilities except qualified wholesale electric companies, as defined in s.  
15 76.28 (1) (gm), and except wholesale merchant plants, as defined ins. 196.4910) (w),  
16 or according to the value as reported to the department of revenue under par. (a) of  
17 the production plant within each municipality for each qualified wholesale electric  
18 company. The payment to each municipality under this subdivision shall be no less  
19 than \$15,000 annually, <sup>^</sup>

20 SECTION 7. 79.04 (2) (a) of the statutes is amended to read:

21 79.04 (2) (a) Annually, the department of administration, upon certification by  
22 the department of revenue, shall distribute from the shared revenue account to any  
23 county having within its boundaries a production plant or a general structure,  
24 including production plants and general structures under construction, used by a  
25 light, heat or power company assessed under s. 76.28 (2), except property described

**SENATE BILL**

1 in s. 66.069 (2) unless the production plant is owned or operated by a local  
2 governmental unit that is located outside of the municipality in which the production  
3 plant is located, or by an electric cooperative assessed under ss. 76.07 and 76.48,  
4 respectively, or by a municipal electric company under s. 66.073 an amount  
5 determined by multiplying by 6 mills in the case of property in a town and by 3 mills  
6 in the case of property in a city or village the first \$125,000,000 of the amount shown  
7 in the account, plus leased property, of each public utility except qualified wholesale  
8 electric companies, as defined in s. 76.28 (1) (gm), and except wholesale merchant  
9 plants. as defined in s. 196.491 (1) (w), on December 31 of the preceding year for  
10 either “production plant, exclusive of land” and “general structures”, or “work in  
11 progress” for production plants and general structures under construction, in the  
12 case of light, heat and power companies, electric cooperatives or municipal electric  
13 companies, for all property within the municipality in accordance with the system  
14 of accounts established by the public service commission or rural electrification  
15 administration, less depreciation thereon as determined by the department of  
16 revenue and less the value of treatment plant and pollution abatement equipment,  
17 as defined under s. 70.11 (21) (a), as determined by the department of revenue plus  
18 an amount from the shared revenue account determined by multiplying by 6 mills  
19 in the case of property in a town, and 3 mills in the case of property in a city or village,  
20 of the total original cost of production plant, general structures and  
21 work-in-progress less depreciation, land and approved waste treatment facilities of  
22 each qualified wholesale electric company, as defined in s. 76.28 (1) (gm), and each  
23 wholesale merchant plant. as defined in s. 196.491 (1) (w), as reported to the  
24 department of revenue of all property within the municipality. **The** total of amounts,  
25 as depreciated, from the accounts of all public utilities for the same production plant

**SENATE BILL**

1 is also limited to not more than \$125,000,000. The amount distributable to a county  
2 in any year shall not exceed \$100 times the population of the county.

3 (END)

**SUBMITTAL  
FORM**

**LEGISLATIVE REFERENCE BUREAU  
Legal Section Telephone: 266-3561  
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

**Date:** 03/21/2000

**To:** Representative Ladwig

**Relating to LRB drafting number: LRB-4799**

**Topic**

License fees based on the sales of wholesale electricity

**Subject(s)**

Tax - utilities

1. **JACKET** the draft for introduction Bonnie Ladwig  
**in the Senate** or **the Assembly** X (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached \_\_\_\_\_

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction \_\_\_\_\_

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Joseph T. Kreye, Legislative Attorney  
Telephone: (608) 266-2263



# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET  
P.O. BOX 2037  
MADISON, WI 53701-2037

STEPHEN R. MILLER  
CHIEF

LEGAL SECTION: (608) 266-3581  
LEGAL FAX: (608) 264-8522

REFERENCE SECTION: (608) 266-0341  
REFERENCE FAX: (608) 266-5648

March 29, 2000

## MEMORANDUM

**To:** Representative Meyerhofer

**From:** Joseph T. Kreye

**Subject:** AR927 as it relates to Wisconsin Public Power Inc.

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This memorandum is in response to your question regarding the effect of 1999 Assembly Bill 927.

Under current law, it is my understanding that Wisconsin Public Power Inc. (WPPI) is exempt from the license fees under chapter 76 of the statutes.

Under 1999 Assembly Bill 927, WPPI is still exempt from the license fees under chapter 76 of the statutes, as long as WPPI does not sell electricity for resale or engages in any other taxable activity under chapter 76 of the statutes.

Please contact me if you have any questions.



STEPHEN R. MILLER  
CHIEF

# State of Wisconsin

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P. O. BOX 2037  
MADISON, WI 53701-2037

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LEGAL FAX: (608) 264-8522

REFERENCE SECTION: (608) X6-0341  
REFERENCE FAX: (SOS) 266-5648

March 29, 2000

## MEMORANDUM

**To:** Senator Wirch

**From:** Joseph T. Kreye; Legislative Attorney; Legislative Reference Bureau

**Subject:** SB 506/AB 927

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I have recently been asked whether 1999 Senate Bill 506, and its companion 1999 Assembly Bill 927, have any effect on the tax treatment of municipal electric companies. I thought I should inform you of how I answered that question. 1999 Senate Bill 506, and its companion 1999 Assembly Bill 927, have no effect on the tax treatment of municipal electric companies.

Under current law, municipal electric companies are, generally, exempt from taxation under section 66.073 (16) (b) of the statutes. Instead of paying the license fees under chapter 76 of the statutes, a municipal electric company makes a payment in lieu of taxes to the local taxation district in which the company is located.

1999 Senate Bill 506 and 1999 Assembly Bill 927 do not effect the tax treatment of municipal electric companies under current law. Municipal electric companies are exempt from the license fee imposed under section 76.29 of the statutes, as created in the bill. Municipal electric companies will remain exempt from taxation and will continue to make payments in lieu of taxes.

If you have any questions, please do not hesitate to contact me.