

**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 1999 ASSEMBLY BILL 927**

March 28, 2000 – Offered by Representative LADWIG.

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

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

5 **SECTION 1.** 76.025 (2) of the statutes is amended to read:

6 76.025 (2) If the property of any company defined in s. 76.28 (1), except a  
7 qualified wholesale electric company as defined in s. 76.28 (1) (gm) and a wholesale  
8 merchant plant as defined in s. 196.491 (1) (w), is located entirely within a single  
9 town, village or city, it shall be subject to local assessment and taxation.

10 **SECTION 2.** 76.28 (1) (e) (intro.) of the statutes, as affected by 1999 Wisconsin  
11 Act 9, is amended to read:

1           76.28 (1) (e) (intro.) “Light, heat and power companies” means any person,  
2 association, company or corporation, including corporations described in s. 66.069  
3 (2), qualified wholesale electric companies, wholesale merchant plants as defined in  
4 s. 196.491 (1) (w) and transmission companies and except only business enterprises  
5 carried on exclusively either for the private use of the person, association, company  
6 or corporation engaged in them, or for the private use of a person, association,  
7 company or corporation owning a majority of all outstanding capital stock or who  
8 control the operation of business enterprises and except electric cooperatives taxed  
9 under s. 76.48 that engage in any of the following businesses:

10           **SECTION 3.** 76.28 (2) (a) of the statutes is amended to read:

11           76.28 (2) (a) There Except as provided in s. 76.29, there is imposed on every  
12 light, heat and power company an annual license fee to be assessed by the  
13 department on or before May 1, 1985, and every May 1 thereafter measured by the  
14 gross revenues of the preceding year, excluding gross revenues under s. 76.29, at the  
15 rates and by the methods set forth under pars. (b) to (d). The fee shall become  
16 delinquent if not paid when due and when delinquent shall be subject to interest at  
17 the rate of 1.5% per month until paid. Payment in full of the May 1 assessment  
18 constitutes a license to carry on business for the 12-month period commencing on the  
19 preceding January 1.

20           **SECTION 4.** 76.29 of the statutes is created to read:

21           **76.29 License fee for selling electricity at wholesale. (1) DEFINITIONS.**

22           In this section:

23           (a) “Apportionment factor” has the meaning given in s. 76.28 (1) (a).

24           (b) “Department” means the department of revenue.

25           (c) “Electric cooperative” has the meaning given in s. 76.48 (1g) (c).

1 (d) “Gross revenues” means total revenues from the sale of electricity for resale  
2 by the purchaser of the electricity.

3 (e) “Light, heat and power companies” has the meaning given in s. 76.28 (1) (e).

4 (f) “Tax period” means each calendar year or portion of a calendar year from  
5 January 1, 2002, to December 31, 2007.

6 **(2) IMPOSITION.** There is imposed on every light, heat and power company and  
7 electric cooperative that owns an electric utility plant, an annual license fee to be  
8 assessed by the department on or before May 1, 2003, and every May 1 thereafter,  
9 ending with the assessment on May 1, 2008, measured by the gross revenues of the  
10 preceding tax period in an amount equal to the apportionment factor multiplied by  
11 gross revenues multiplied by 1.59%. The fee shall become delinquent if not paid  
12 when due and when delinquent shall be subject to interest at the rate of 1.5% per  
13 month until paid.

14 **(3) ADMINISTRATION.** Section 76.28 (3) (c) and (4) to (11), as it applies to the fee  
15 imposed under section 76.28 (2), applies to the fee imposed under this section.

16 **SECTION 5.** 76.48 (1r) of the statutes is amended to read:

17 76.48 (1r) ~~Every~~ Except as provided in s. 76.29, every electric cooperative shall  
18 pay, in lieu of other general property and income or franchise taxes, an annual license  
19 fee equal to its apportionment factor multiplied by its gross revenues, excluding  
20 gross revenues under s. 76.29, multiplied by 3.19%. Real estate and personal  
21 property not used primarily for the purpose of generating, transmitting or  
22 distributing electric energy are subject to general property taxes. If a general  
23 structure is used in part to generate, transmit or distribute electric energy and in  
24 part for nonoperating purposes, the license fee imposed by this section is in place of  
25 the percentage of all other general property taxes that fairly measures and

1 represents the extent of the use in generating, transmitting or distributing electric  
2 energy, and the balance is subject to local assessment and taxation, except that the  
3 entire general structure is subject to special assessments for local improvements.

4 **SECTION 6.** 79.04 (1) (intro.) of the statutes is amended to read:

5 79.04 (1) (intro.) Annually the department of administration, upon  
6 certification by the department of revenue, shall distribute to a municipality having  
7 within its boundaries a production plant or a general structure, including production  
8 plants and general structures under construction, used by a light, heat or power  
9 company assessed under s. 76.28 (2) or s. 76.29 (2), except property described in s.  
10 66.069 (2) unless the production plant is owned or operated by a local governmental  
11 unit located outside of the municipality, or by an electric cooperative assessed under  
12 ss. 76.07 and 76.48, respectively, or by a municipal electric company under s. 66.073  
13 the amount determined as follows:

14 **SECTION 7.** 79.04 (1) (a) of the statutes is amended to read:

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

1 as determined by the department of revenue and less the value of treatment plant  
2 and pollution abatement equipment, as defined under s. 70.11 (21) (a), as determined  
3 by the department of revenue plus an amount from the shared revenue account  
4 determined by multiplying by 3 mills in the case of a town, and 6 mills in the case  
5 of a city or village, of the first \$125,000,000 of the total original cost of production  
6 plant, general structures and work-in-progress less depreciation, land and  
7 approved waste treatment facilities of each qualified wholesale electric company, as  
8 defined in s. 76.28 (1) (gm), and each wholesale merchant plant, as defined in s.  
9 196.491 (1) (w). as reported to the department of revenue of all property within the  
10 municipality. The total of amounts, as depreciated, from the accounts of all public  
11 utilities for the same production plant is also limited to not more than \$125,000,000.  
12 The amount distributable to a municipality in any year shall not exceed \$300 times  
13 the population of the municipality.

14 **SECTION 8.** 79.04 (1) (c) 2. of the statutes is amended to read:

15 79.04 (1) (c) 2. If a production plant is located in more than one municipality,  
16 the total payment under subd. 1. shall be apportioned according to the amounts  
17 shown on the preceding December 31 for the production plant in the account  
18 described in par. (a) for “production plant exclusive of land” within each municipality  
19 for all public utilities except qualified wholesale electric companies, as defined in s.  
20 76.28 (1) (gm), and except wholesale merchant plants, as defined in s. 196.491 (1) (w).  
21 or according to the value as reported to the department of revenue under par. (a) of  
22 the production plant within each municipality for each qualified wholesale electric  
23 company. The payment to each municipality under this subdivision shall be no less  
24 than \$15,000 annually.

25 **SECTION 9.** 79.04 (2) (a) of the statutes is amended to read:

1           79.04 (2) (a) Annually, the department of administration, upon certification by  
2 the department of revenue, shall distribute from the shared revenue account to any  
3 county having within its boundaries a production plant or a general structure,  
4 including production plants and general structures under construction, used by a  
5 light, heat or power company assessed under s. 76.28 (2) or s. 76.29 (2), except  
6 property described in s. 66.069 (2) unless the production plant is owned or operated  
7 by a local governmental unit that is located outside of the municipality in which the  
8 production plant is located, or by an electric cooperative assessed under ss. 76.07 and  
9 76.48, respectively, or by a municipal electric company under s. 66.073 an amount  
10 determined by multiplying by 6 mills in the case of property in a town and by 3 mills  
11 in the case of property in a city or village the first \$125,000,000 of the amount shown  
12 in the account, plus leased property, of each public utility except qualified wholesale  
13 electric companies, as defined in s. 76.28 (1) (gm), and except wholesale merchant  
14 plants, as defined in s. 196.491 (1) (w), on December 31 of the preceding year for  
15 either “production plant, exclusive of land” and “general structures”, or “work in  
16 progress” for production plants and general structures under construction, in the  
17 case of light, heat and power companies, electric cooperatives or municipal electric  
18 companies, for all property within the municipality in accordance with the system  
19 of accounts established by the public service commission or rural electrification  
20 administration, less depreciation thereon as determined by the department of  
21 revenue and less the value of treatment plant and pollution abatement equipment,  
22 as defined under s. 70.11 (21) (a), as determined by the department of revenue plus  
23 an amount from the shared revenue account determined by multiplying by 6 mills  
24 in the case of property in a town, and 3 mills in the case of property in a city or village,  
25 of the total original cost of production plant, general structures and

1 work-in-progress less depreciation, land and approved waste treatment facilities of  
2 each qualified wholesale electric company, as defined in s. 76.28 (1) (gm), and each  
3 wholesale merchant plant, as defined in s. 196.491 (1) (w), as reported to the  
4 department of revenue of all property within the municipality. The total of amounts,  
5 as depreciated, from the accounts of all public utilities for the same production plant  
6 is also limited to not more than \$125,000,000. The amount distributable to a county  
7 in any year shall not exceed \$100 times the population of the county.

8 **SECTION 10. Effective date.**

9 (1) This act takes effect on January 1, 2001.

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(END)