

**1999 DRAFTING REQUEST**

**Bill**

Received: **12/2/98**

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Brian Burke (608) 266-8535**

By/Representing: **Curt Pawlisch**

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

Drafter: **kunkemd**

May Contact: **Curt Pawlisch**

Alt. Drafters:

Subject: **Public Util. - electric**

Extra Copies:

**Topic:**

Public benefits

**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>
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*2/10/99*  
*IS*  
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*PA: Add 99-0246  
File to  
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note in  
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that it  
may  
be  
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found  
here.  
Thank!*

**Topic:**

Public benefits

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1?	kunkemd	PI 12/2/98	5/12/3	8/6/98			

FE Sent For:

<END>

Cullen  
Weston  
Pines  
& Bach

*Attorneys at Law*

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November 30, 1998

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Madison, WI 53709

Mr. Mark Kunkel  
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100 N. Hamilton Street  
P.O. Box 2037  
Madison, WI 53701-2037

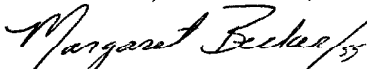
Re: Energy Public Benefits Bill

Dear Barry and Mark:

Attached are revisions to the draft public benefits bill forwarded to Customers First! on September 30, 1998. Please call me if you have any questions or concerns about these revisions.

Sincerely,

CULLEN, WESTON, PINES & BACH

  
Margaret Becker

MB/ss

Enclosure

cc: Customers First! Coalition  
Public Benefits Group

## Revisions from Customers First! to 1999 Utility Public Benefits Bill

Page 2, Lines 1-10 (*Analysis by Legislative Reference Bureau*)

The board, which is attached to the public service commission (PSC), is required to establish programs for each of the following: 1) assisting low-income households with weatherization and energy conservation services and payment of energy bills (low-income assistance programs); 2) providing energy conservation and efficiency services ~~to eligible recipients~~ generally (conservation programs); and 3) encouraging the development and use of renewable energy resources (renewables programs). The board must hold a hearing before establishing the programs. Interested persons including members of the public, may intervene in a hearing and, under certain circumstances, receive compensation from the PSC for the reasonable costs of intervention.

(Page 2, Line 5 -- *This statement as written is misleading because there are no eligibility requirements for the non-low-income conservation services.*)

Page 2, Lines 33-39 (*Analysis*)

The bill directs the board to determine the amount of an access fee that must be charged by nonmunicipal public utilities, ~~municipal utilities and cooperatives~~. Each municipal utility and retail electric cooperative must charge an access fee that is sufficient for the utility or cooperative to collect an annual average of \$13.16 per meter of measured service. However, for the period ending on June 30, 2008, the amount of any increase to an electric bill that is based ~~or on~~ on the access fee may not exceed 3% of the total of every other charge billed during that period.

(*This correction is necessary because the board does not set the access fee for municipals and coops. Their access fee is set in the statute.*)

Page 3, Lines 4-8 (*Analysis*)

Redraft to reflect revisions on Page 19, Lines 7-20.

Page 3, Lines 13-20 (*Analysis*)

~~The bill also requires certain electric utilities to spend a portion of the access fees on energy conservation programs, rather than paying the entire amount to the board. Under current law, certain electric utilities are required to spend at least 0.5% of their annual operating revenues on energy conservation programs. The bill requires instead that, through fiscal year 2001-02, such electric utilities must spend a specified portion of the access fees on energy conservation programs. After fiscal year 2001-02, the electric utilities are not required to spend a portion of the access fees on energy conservation programs, but must pay the entire amount to the board.~~

Redraft to reflect revisions on Page 8, Lines 8-16.

Page 3, Lines 23-24 (*Analysis*)

1. The bill requires public utilities to allow electric customers to make voluntary contributions to the board's programs or the commitment to community programs.

Page 3, Lines 25-28 (*Analysis*)

2. For purposes of determining whether a municipal utility or retail electric cooperative has spent a required amount on a commitment to community program, the bill allows a municipal utility or cooperative to receive credit for any spending by its wholesale electric supplier ~~on the supplier's own~~ that would qualify as commitment to community programs.

*(This correction is necessary because only retail providers, not wholesale providers can, by definition, have commitment to community programs.)*

---

Page 5, Lines 8-10

1. One member appointed by the governor who is a member of a low-income household or ~~who represents a low-income household advocacy group~~ a member of a group or organization that represents low-income households.

Page 5, Lines 20-21

6. One member appointed by the speaker of the assembly who is a member of a low-income household or ~~who represents a low-income household advocacy group~~ a member of a group or organization that represents low-income households.

Page 8, Lines 8-16

Replace existing bill text with the following:

Section 8. 196.374(1) of the statutes is amended to read:

196.374 (1) In this section "utility" means a class A gas or electric utility, as defined by the commission, but "utility" does not mean a municipal utility or a cooperative association organized under ch. 185. In fiscal year 1999-00, every utility shall spend at least 0.5% 0.375% of its total annual operating revenues on programs designed to promote and accomplish energy conservation. In fiscal year 2000-01, the amount shall be 0.25% of total operating revenues. In fiscal year 2001-02, the amount shall be 0.125% of total operating revenues. The commission may require a utility to spend



rate to an offer of determined by  
as value by rate  
periodic

annually for the purpose of promoting and accomplishing energy conservation, an amount which is more or less than 0.5% of its annual operating revenues the amounts prescribed in this section if, after notice and hearing, the commission finds that the expenditures of such amount is in the public interest.

testing

Page 9, Lines 1-2

(b) "Capacity" means the maximum amount of electricity that an electric provider is capable of delivering to its customers or members at a specified time a generator can produce, as measured by either a periodic test or the nameplate capacity. Capacity of a generating facility where biomass fuels are cofired with non-renewable fuels shall be determined by multiplying the facility's total capacity by the ratio of the BTU content of the renewable fuel to the BTU content of all fuel.

and to rule?

Page 9, Line 13

b. Tidal and wave action.

produced  
cap

a generator is capable of

Page 9, Line 14

c. Solar thermal electric and photovoltaic energy.

produce or generate

Page 9, Lines 21-23

(h) "Renewable resource credit" means a percentage the amount by which an electric provider's capacity that is from renewable resources percentage exceeds a the percentage of the electric provider's system peak load share specified in sub. (2)(a)1. to 6.

Page 9, Lines 24-25

(i) "Renewable resource percentage" means the percentage of an electric provider's capacity that is generated from renewable resources.

(This change is necessary because capacity is not "generated.")

Page 10, Lines 22-24

1. Any amount of capacity that was placed in service before January 1, 1998 that is generated from hydroelectric power or power generated from landfill gas or wood, and that is more than 1% of the electric provider's system peak load share, may shall not be counted as part of the provider's capacity that is generated from renewable resources and shall not be traded or sold as renewable resource credits.

→ NOT necessary?

NOT a renewable resource? if not, then not necessary

Page 11, Lines 1-14

lg. An electric provider may not count as part of the provider's capacity that is ~~generated~~ from renewable resources any capacity that the electric provider is required, as determined by the commission, to ~~generate from~~ have as renewable resources under the law of another state.

lr. An electric provider may count as part of the provider's capacity that is ~~generated~~ from renewable resources only that capacity which is installed and rated on the basis of periodic tests.

2. The ~~amount~~ of any renewable resource credit purchased by the electric provider under sub. (3) may be counted as part of the provider's capacity that is ~~generated~~ from renewable resources.

3. For a municipal utility or retail electric cooperative, the amount of any capacity that the municipal utility or retail electric cooperative purchases at wholesale and that is ~~generated~~ from renewable resources may be counted as ~~part of the provider's~~ the municipal utility or retail electric cooperative's capacity that is ~~generated~~ from renewable resources.

Page 11, Lines 24-25 - Page 12, Lines 1-4

(b) The commission shall promulgate rules that establish a system for ~~arranging transactions between electric providers and sellers of~~ renewable resource capacity ~~generated from renewable resources~~. The system shall include procedures that allow an electric provider to bid, on a statewide basis, for ~~renewable resource~~ capacity ~~generated from renewable resources~~. The commission may not require an electric provider to participate in the system established under rules promulgated under this paragraph.

Page 13, Lines 12-13

(f) "Electric utility" means a public utility as defined by § 196.01(5) that generates, transmits, delivers or furnishes electricity.

Page 13, Lines 17-18

(i) "Load management program" means a program ~~for reducing which allows an electric provider or its wholesale supplier to exercise control over electric usage by customers to reduce the demand for electricity. during an electric provider's period of maximum demand.~~

Page 15, Lines 4-10

(a) After holding a hearing, establish programs to be administered by the department of administration through the division of housing for awarding

grants from the appropriation under s. 20.155(1m)(r) to provide low-income assistance. In each fiscal year, no less than the amount obtained by subtracting from \$50,000,000 the sum of all moneys received under 42 USC 6861 to 6873 in a fiscal year shall be awarded under this paragraph in grants for low-income assistance ~~other than payment of energy bills~~ weatherization and other low-income energy conservation services.

Page 15, Lines 13-20

1. Proposals for providing energy conservation or efficiency services. In awarding grants under this subdivision, the board shall give priority to proposals directed at the sectors of energy conservation or efficiency markets ~~that are least competitive and at promoting environmental protection,~~ reliability of the electric system or rural economic development. In each fiscal year, 1.75% of the amount obtained by subtracting from the appropriation under s. 20.155(1m)(r) the amount awarded under par. (a) shall be awarded in grants for research and development proposals regarding the environmental impacts of the electric industry.

Page 16, Lines 3-4

(bm) ~~The board may award grants under par. (b) only for proposals that are consistent with strategic planning decisions~~ energy assessments of the commission.

Page 17, Lines 12-25

(g) Promulgate rules that require electric utilities to allow customers to include voluntary contributions to assist in funding a commitment to community program or a program established under par. (a) or (b) with bill payments for electric service. The rules may require an electric utility to provide a space on an electric bill in which a customer may indicate the amount of a voluntary contribution and the customer's preference regarding whether a contribution should be used for ~~a commitment to community program or~~ a program established under par. (a) or (b) 1. or 2. The rules shall establish requirements and procedures for electric utilities to pay to the board any voluntary contributions included with bill payments and to report to the board customer preferences regarding use of the contributions. ~~except for This subsection does not apply to voluntary contributions to a commitment to community program that are received by a municipal utility that is required under sub. (5)(d) to spend the access fees that it charges on the a commitment to community program, and to report customer preferences regarding use of the contributions.~~ The board shall deposit all contributions received under this paragraph in the utility public benefits fund.

Page 18, Lines 13-17

NOT  
needed

✓ (4) ELECTRIC UTILITIES. (a) Requirement to charge access fees. Each electric utility, except for a municipal utility or an electric cooperative, shall charge each customer an access fee in an amount established in rules promulgated by the board under par. (b). An electric utility, except for a municipal utility or an electric cooperative, shall collect and, ~~except as provided in par. (d)2,~~ pay the fees to the board in accordance with the rules promulgated under par. (b).

(Paragraph (d)2 is to be eliminated. See below.)

Page 18, Lines 18 -24 through Page 19, Lines 1-2

✓ (b) Rules. The board shall promulgate rules that establish the amount of an access fee that an electric utility shall charge a customer under par. (a) and requirements and procedures for an electric utility to collect and pay the fees to the board. Rules promulgated under this paragraph may allow an electric utility to charge different fees to different classes of customers, but no class of customers may be required to pay, in the aggregate, a disproportionate amount in comparison to any other class of customers. The rules shall prohibit an electric utility from itemizing an access fee on a customer's bill unless all other nonfuel costs are also itemized on the bill.

Page 19, Lines 17-20

2. ~~For fiscal years 1999-00, 2000-01 and 2001-02, a portion of the fee shall be in an amount that is sufficient for the board to receive in access fees the amount obtained by subtracting from \$112,000,000 20% of the access fees charged by municipal utilities and retail cooperatives under sub. (5)(a) for the fiscal year.~~ For fiscal year 1999-00, a portion of the access fee shall be in an amount that is sufficient for the board to receive in access fees the amount obtained by subtracting from \$28,000,000 20% of the access fees charged by municipal utilities and retail electric cooperatives under sub. (5)(a) for that fiscal year. For fiscal year 2000-01, a portion of the access fee shall be in an amount that is sufficient for the board to receive in access fees the amount obtained by subtracting from \$56,000,000 20% of the access fees charged by municipal utilities and retail electric cooperatives under sub. (5)(a) for that fiscal year. For fiscal year 2001-02, a portion of the access fee shall be in an amount that is sufficient for the board to receive in access fees the amount obtained by subtracting from \$84,000,000 20% of the access fees charged by municipal utilities and retail electric cooperatives under sub. (5)(a) for that fiscal year. For each fiscal year after 2002, a portion of the access fee shall be in an amount that is sufficient for the board to receive in access fees the amount obtained by subtracting from \$112,000,000 20% of the access fees charged by municipal utilities and retail electric cooperatives under sub. (5)(a) for that fiscal year. For each fiscal year after 2001-02....

Page 20, Lines 7-16

Delete Lines 7-16

Page 20, Lines 17-23

(5) MUNICIPAL UTILITIES AND RETAIL ELECTRIC COOPERATIVES.

(a) Requirement to charge access fees. Each retail electric cooperative and municipal utility shall charge a monthly access fee to each customer or member in an amount that is sufficient for the retail electric cooperative or municipal utility to collect an annual average of \$13.16 per meter of ~~measured service~~. A retail electric cooperative or municipal utility may determine the amount that a particular class of customers or members is required to pay under this paragraph. A retail electric cooperative or municipal utility may charge different fees to different classes of customers.

Page 21, Lines 19-22

1. If the municipal utility or retail electric cooperative elects to contribute only to the programs established under sub. (2)(a), the municipal utility or retail electric cooperative shall, in each fiscal year of the 3-year period for which it elects to contribute under par. (b)1. or 2., do all of the following make appropriate payments to the board and fund a commitment to community program as follows:

Page 22, Lines 7-10

If the municipal utility or retail electric cooperative elects to contribute only to the programs established under sub. (2)(b), the municipal utility or retail cooperative shall, in each fiscal year of the 3-year period for which it elects to contribute under part. (b)1. or 2., do all of the following make appropriate payments to the board and fund a commitment to community program as follows:

Page 22, Lines 17-20

3. If the municipal utility or retail electric cooperative elects not to contribute to any of the programs established under sub. (2)(a) or (b), the municipal utility or retail electric cooperative shall, in each fiscal year of the 3-year period for which it elects not to contribute under par. (b)1. par. 2., do all of the following fund a commitment to community program as follows:

Page 23, Lines 5-15

(dm) A municipal utility or retail electric cooperative may use not more than 10% of the access fee that it charges under par. (a) to compensate a

wholesale supplier for the difference between the market price of electricity that the wholesale supplier generates from renewable resources as defined by 196.378(1)(g) constructed after December 31, 1997, and the market price of electricity generated from conventional resources, as defined in s. 196.378(1)(c). A municipal utility or retail electric cooperative may deduct from the access fees that it is required to pay to the board under par. (c) or (d)1.a. or 2.a. the amount that it uses to compensate a wholesale supplier under this paragraph.

(e) Wholesale supplier credit. If a wholesale supplier of a municipal utility or retail electric cooperative that is a wholesale supplier organized pursuant to section 66.073 or ch. 185 funds a program or programs that, if done by a municipal utility or retail electric cooperative, would fall within the definition of a commitment to community program in section 196.96(1)(cm). ~~has established a commitment to community program,~~ the municipal utility or retail electric cooperative may do any of the following:

*(This change is necessary because some wholesale suppliers of municipal utilities and retail cooperatives are investor-owned utilities that are retail suppliers of their own retail customers. Wisconsin Power and Light is an example. The credit in subsection (e) is intended to apply to programs the wholesale supplier undertakes for the benefit of the retail customers served by the municipal or cooperative, not the IOU's own retail customers.)*

Insert "electric" between "retail" and "cooperative" on Page 5, Lines 1 and 18, Page 6, Lines 8, 16 and 22, Page 7, Lines 1, 2 and 4, Page 9 Line 5, Page 10, Line 2, Page 11, Line 12, Page 12, Line 25, Page 13, Lines 2, 4 and 10, Page 14, Lines 15 and 23, Page 15, Line 2, Page 16, Line 15, Page 19, Lines 9 and 16, Page 20, Line 1, Page 21, Lines 6, 10, 12, 17, 19, and 20, Page 22, Lines 3, 7, 8, 17, and 18, Page 23, Lines 1, 16, 19, and 22, and Page 24, Lines 1, 3, 5, 8, 13, and 16.

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Wanted: **Soon**

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For: **Brian Burke (608) 266-8535**

By/Representing: **Margaret Becker**

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May Contact: **Margaret Becker**

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**Customers  
First!**

*Redraft entire  
bill*

A Coalition to Preserve Wisconsin's Reliable and Affordable Electricity



P.O. Box 54, Madison, WI 53703

Phone (608) 286-0784

Toll-free 1-888-960-4778

Fax (608) 286-6174

April 13, 1998

Mr. Barry Ashenfelter  
Senator Brian Burke's Office  
119 Martin Luther King, Jr. Blvd., LLI  
Madison, WI 53709


Mr. Mark Kunkel  
Legislative Reference Bureau  
100 N. Hamilton Street  
P.O. Box 2037  
Madison, WI 53701-2037

Dear Mr. Ashenfelter and Mr. Kunkel:

Attached are changes to the public benefits bill, SB 517, that need to be drafted in the form of technical amendments.

If you have any questions, please call me.

Sincerely,

  
Margaret Becker

MB/ss

Enclosure

cc: Customers First! Coalition  
Public Benefits Group



### Technical Amendments to SB 517 Proposed by Customers First!

Page 1, lines 5-6:

In this line and hereinafter, change "public benefits and energy assistance" to "public benefits". (Energy assistance is part of public benefits, so there is no need for both terms in the title of the board, the fund, etc.)

*→ public benefits 6d?*

Page 5, line 18:

Delete the word "of" following "represents." ✓

Page 6, line 11:

Delete the word "not." ✓

Page 7, line 7:

Delete the word "not." ✓

Pages 9-12:

Delete all references to gas in s. 196.378 except in the definition of conventional resource. (Page 9, lines ~~3, 7, 9, 10, 11~~; page 10, lines ~~1, 2, 4, 8, 10, 13, 14, 15, 17, 18~~; page 11, lines ~~1, 4, 7, 11, 14, 21, 22, 24~~; page 12, line ~~12~~.) Only electric utilities are subject to the renewable portfolio standard, since a gas utility by definition cannot incorporate renewable resources into its portfolio.

Page 12, lines 23-25:

Revise as follows:

"Commitment to community program" means a program undertaken by a municipal utility or retail cooperative that includes for low-income assistance, or a community assistance, energy conservation or load management programs, as required by sub. (5)(d).

*Why  
needy?*

Page 13, line 16:

Insert the word "other" between "and" and "energy conservation." ✓

Page 14, line 2:

Delete the words "in a fiscal year" and insert in their place "1998."

*Why?*

(The reason for this change is that \$105 million is the initial funding level only. It will not be the funding level forever. The low-income need percentage is a static, permanent number. The funding level will change over time by applying this static percentage to the changing level of need. The low-income funding will represent the same percentage of need in the future as is represented by \$105 million at the start of the program.)

Page 14, line 4:

Delete the words "in a fiscal year" between "percentage" and "multiplied" and change the word "that" to "a".

Page 14, line 24:

Delete sentence beginning at "A hearing" and ending at "227.44."

Page 15, lines 2-3:

Delete the words "assistance other than payment of energy bills" and insert in their place "weatherization and other low-income energy conservation services." *meaning clarified?*

Page 15, lines 4-5:

Delete phrase "that is not a hearing under s. 227.42 or 227.44."

Page 15, line 11:

Delete phrase "not less than".

Page 15, line 18:

Delete phrase "no less than".

Page 16, line 4:

Delete second "under".

Page 17, lines 1-3:

Revise as follows:

Encourage customers to make voluntary contributions to assist in funding the programs established under pars. (a) and (b), and encourage utilities to provide a method on electric bills to facilitate the voluntary contributions. The board shall deposit all contributions received under this paragraph in the public benefits and energy assistance fund.

Page 18, lines 1-4:

Revise as follows:

The board ~~may shall~~, based on competitive bids, contract with a ~~community action agency described in s. 46.30(2)(a)1., a nonstock, nonprofit corporation organized under ch. 181, or a local unit of government~~, to administer a the requests for proposals, bidding,

*↓  
recy to  
spec to?*

*O-NOTE vagueness of  
requirement*

*redundant  
inconsistent w/  
pt 7 lines 4-18?*

bid selection, and distribution of grants for programs established under sub. (2)(b).

Page 18, line 21:

Delete the word "in". ✓

Page 19, line 2:

Replace the word "in" with "an." ✓

Page 19, line 9:

Revise as follows:

. . . that is sufficient ~~for the board to receive~~ to raise from all electric utilities . . .

→ what's the diff?

Page 19, line 25 to page 20, line 2:

Revise the section as follows:

. . . ~~the total amount of a fee charged to a customer of an electric utility any increase in an electric utility customer's bill due to the public benefits fund charge~~ may not exceed 3% of the total of every other charge for which a customer is billed for that period.

"increase" must reflect decrease in gas rate

not clear?

Page 19, lines 19-23:

Delete these lines. →

check formula? ✓

Page 20, lines 3-5:

Revise as follows:

. . . 1. An electric utility shall spend on energy conservation programs under s. 196.374 the following percentage of the amount of the access fees that it collects under par. (a) that represents that utility's share of the amount designated in s. 196.96(4)(c)2 ~~on energy conservation programs under s. 196.374:~~

↓ meaning clear?

Page 20, line 9:

Delete "or gas".

Page 20, lines 13-19:

Revise as follows:

(5) MUNICIPAL UTILITIES AND RETAIL COOPERATIVES; COMMITMENT TO COMMUNITY PROGRAMS. (a) ~~Requirement to charge access fees. Subject to s. 196.96(5)(am),~~ Each retail cooperative and municipal utility shall charge ~~an~~ monthly access fee to each customer or member in an amount that is sufficient for the retail cooperative or municipal utility to collect an annual average of \$13.16 for each meter ~~that provides service to each customer or member.~~ A retail cooperative or municipal utility may determine the amount that a ~~particular customer or member or~~

noisy? NOT noisy

↓ clarity suffers? 3

particular class of customers or members is required to pay under this paragraph.

(am) Access fee restriction. Notwithstanding par. (a), for the period beginning on the effective date of this paragraph . . . . [revisor inserts date], and ending on June 30, 2008, ~~the total amount of a fee charged to a customer or member under par. (a)~~ any increase in a customer or member's bill due to the public benefits fund charge may not exceed 3% of the total of every other charge for which a member or customer is billed for that period.

→ not called EM's?

- what follows if violated?

Page 21, line 12:

Add the following clause at the end of the sentence:

" , subject to [the new section to be added between s. 196.96(5)(d) and (e), described below]."

Page 21, lines 13-17:

→ what about the rest of (d)?

Move this sentence to a new subsection between s. 196.96(5)(d) and (e) with the following modifications:

Notwithstanding par. (c), A municipal utility or retail cooperative not specified in par. (e) may use no more than 10% of the access fees that it charges under par. (a) to compensate a wholesale supplier for the difference between the market price of electricity the wholesale supplier generates from renewable sources constructed on or after January 1, 1998 that satisfy costs incurred by the wholesale supplier in satisfying a renewable resource percentage requirement under s. 196.378(2)(a) and the market price of electricity generated by conventional resources as defined in s. 196.378(1)(c). and shall do one of the following:

→ [scribbles] 12/17/07?

Page 23, lines 1-3:

Revise as follows:

(e) Wholesale supplier credit. If a wholesale supplier of a municipal utility or retail cooperative ~~has established a commitment to community program~~ makes expenditures for low-income assistance, energy conservation or for customer applications of renewable resources, the municipal utility or retail cooperative that has established a commitment to community program may do any of the following:

→ [scribbles] 10/27/07?

NOT NEC'y

Page 23, line 11:

Insert "or for customer applications of renewable resources" between "programs" and "in a fiscal year."

what is a customer application of a PV add res.?

Page 24, line 20 through page 25, line 2:

Remove the public service commission's responsibility to make a recommendation on continuation of the renewable portfolio standard

Carve out  
from discussion  
- may not recommend  
unless public  
Hif  
and 2  
specific  
findings

→ Rationale?  
if duty is time  
limited?

from the non-statutory section and place it in s. 196.378. Also, remove the January 1, 2000 date for the commission recommendation. Renewable resources will not be competitive by the year 2000, so an evaluation with that deadline would not be worthwhile. A section must be added to s. 196.378 that permits the commission to recommend the abolishment of the portfolio standard upon a formal finding, after a formal hearing that either: a) renewable energy resources have become competitive with conventional electricity sources; or b) the portfolio standard is no longer in the public interest. See p. 15 of the Customer's First! proposal, dated February 10, 1998. Do not put a date on the commission's exercise of this option to make a recommendation.

Also include in the nonstatutory section the statewide bidding process described on p. 15 of the Customer's First! proposal, paragraph (4).

In addition to these changes to the text of the bill, please see attached handwritten edits of the LRB analysis.

~~why a constant?~~  
~~see p. 12 of bill?~~  
~~pulls out~~  
why not



State of Wisconsin  
1997 - 1998 LEGISLATURE

LRB-4789/1  
MDK:kmg:km

## 1997 SENATE BILL 517

March 19, 1998 - Introduced by Senator BURKE, cosponsored by Representative R. POTTER. Referred to Committee on Agriculture and Environmental Resources.

1        **AN ACT to amend** 196.374 (1); and **to create** 15.07 (1) (a) 7., 15.07 (1) (d), 15.792,  
2            20.155 (1m), 25.17 (1) (kx), 25.96, 196.374 (4), 196.378 and 196.96 of the  
3            statutes; **relating to:** establishing programs for low-income energy  
4            assistance, improving energy conservation and efficiency markets and  
5            encouraging the development and use of renewable resources, creating a public  
6            benefits and energy assistance board, establishing a public benefits and energy  
7            assistance fund, requiring electric utilities and retail cooperatives to charge  
8            access fees to customers and members, imposing requirements on the use of  
9            renewable resources by electric and gas utilities and cooperatives, requiring the  
10          exercise of rule-making authority, making appropriations and providing a  
11          penalty.

---

*Analysis by the Legislative Reference Bureau*

This bill creates a public benefits and energy assistance board (board), which is required to establish and administer programs for providing energy assistance to low-income households and conservation and efficiency services ~~to eligible recipients~~ and for encouraging the development and use of renewable energy

**SENATE BILL 517**

resources. The bill also imposes certain requirements on the generation of electricity from renewable energy resources by public utilities and retail cooperative associations.

***Public benefits ~~and energy assistance board~~***

The board, which is attached to the public service commission (PSC), is required to establish programs for each of the following: 1) assisting low-income households with weatherization and energy conservation services and payment of energy bills (low-income assistance programs); 2) providing energy conservation and efficiency services to eligible recipients (conservation programs); and 3) encouraging the development and use of renewable energy resources (renewables programs). The board must hold a hearing before establishing the programs. Interested persons, including members of the public, may intervene in a hearing and, under certain circumstances, receive compensation from the PSC for the reasonable costs of intervention.

The bill requires the division of housing in DOA to contract with ~~certain~~ nonprofit or governmental entities for the administration of the low-income assistance programs. The board <sup>must</sup> ~~may~~ contract with <sup>a non-profit</sup> ~~the same types of entities~~ for the administration of the conservation and renewables programs. Under the low-income assistance programs, in each fiscal year, no less than the difference between \$50,000,000 and the amount of funding received by the state under certain federal low-income assistance and weatherization programs (federal programs) <sup>weatherization and other low-income energy conservation programs</sup> must be used for ~~purposes other than paying energy bills~~. The bill also specifies the ~~minimum~~ amounts that must be used for certain purposes under the conservation and renewables programs.

The programs established by the board are funded by an access fee that the board collects from nonmunicipal electric public utilities, which must charge the access fees to their customers. Municipal electric public utilities and retail electric cooperatives (municipal utilities and cooperatives) are also required to charge an access fee to their customers or members. Every 3 years, a municipal utility or cooperative may elect to contribute all or a specified portion of the access fees to the board for the programs established by the board. A municipal utility or cooperative that does not elect to contribute all of the access fees to the board must spend specified portions of the access fees on its own "commitment to community programs", which are defined as low-income assistance programs, energy conservation programs and programs for promoting the welfare of communities that include the municipal utility's or cooperative's customers or members.

The bill directs the board to determine the amount of an access fee that must be charged by nonmunicipal public utilities, ~~municipal utilities and cooperatives~~. Each municipal utility and cooperative must charge an access fee that is sufficient for the utility or cooperative to collect an annual average of \$13.16 per meter ~~for each customer or member~~. However, for the period ending on June 30, 2008, the amount ~~of the access fee paid by an individual customer or member~~ may not exceed 3% of the total of every other charge that is billed to the customer or member during that period.

increase in a customer's or member's electric bill due to the access fee



**SENATE BILL 517**

For nonmunicipal utilities, the board must determine the amount of the access fee as follows. In fiscal year 1998-99, a portion of the access fee must be in an amount that is sufficient for the board to collect from the nonmunicipal electric utilities the amount that results from subtracting the sum of the following from \$105,000,000: 1) the amount received by the state under the federal programs; and 2) 50% of the access fees charged by municipal utilities and cooperatives. For fiscal years after 1998-99, the amount is determined by subtracting the same amounts from ~~an~~<sup>the</sup> amount of low-income need <sup>target</sup> that is determined by the board. The remaining portion of the access fee must be sufficient for the board to collect from nonmunicipal utilities the amount that results from subtracting the sum of the following from \$112,000,000: ~~1) the amount of funding received under the federal programs; and 2)~~ 20% of the access fees charged by municipal utilities and cooperatives. After fiscal year 2000-01, the board may reduce the amount that must be collected from the remaining portion of the access fee if the board discontinues or reduces any of the conservation or renewables programs. The total access fee paid by a customer of a nonmunicipal utility is subject to the same 3% limit that applies to an access fee paid by a customer or member of a municipal utility or cooperative.

The bill also requires certain electric utilities to spend a portion of the access fees on energy conservation programs, rather than paying the entire amount to the board. Under current law, certain electric utilities are required to spend at least 0.5% of their annual operating revenues on energy conservation programs. The bill requires instead that, through fiscal year 2001-02, such electric utilities must spend a specified portion of the access fees on energy conservation programs. After fiscal year 2001-02, the electric utilities are not required to spend a portion of the access fees on energy conservation programs, but must pay the entire amount to the board.

The bill imposes other requirements on the board's programs and the commitment to community programs, including the following:

1. The bill requires public utilities to allow electric customers to make contributions to the board's programs or the commitment to community programs.

2. For purposes of determining whether a municipal utility or cooperative has spent a required amount on a commitment to community program, the bill allows a municipal utility or cooperative to receive credit for any spending by its wholesale electric supplier on the ~~supplier's own commitment to community programs~~ <sup>qualifying programs</sup>.

3. The bill imposes certain reporting requirements on municipal utilities and cooperatives that spend access fees on commitment to community programs.

***Renewable energy resources***

Under this bill, a certain percentage of the electricity generated by a public utility or retail cooperative association must be generated from renewable energy resources. The percentage is calculated on the basis of a public utility's or retail cooperative association's "system peak load share", which is defined as the amount of electricity that the public utility or retail cooperative association delivered to its customers or members at that time during the summer of 1996 that the maximum amount of electricity was delivered to all customers and members of all public utilities and retail cooperative associations. The following percentages of a public utility's or retail cooperative association's system peak load share must be generated

in the year 2010. The renewable energy resources shall be installed, rated capacity.

- (4) A utility may trade its obligation under s. 196.381(3) with other utilities in Wisconsin. At any time, a utility may have a greater percentage of renewable energy resources than is required under s. 196.381(3), but this does not relieve other utilities of their obligation. Utilities may aggregate their obligations.
- (5) The obligations under s. 196.381(3) of distribution cooperatives and municipal utilities that purchase their requirements from a generation and transmission cooperative or a municipal electric company may be aggregated. In such case, the generation and transmission cooperative or the municipal electric company shall have the obligation.
- (6) A utility may use a statewide bidding process developed by the public service commission consistent with this section to fulfill its obligation under this section.
- (7) A utility must sell the capacity that meets its obligation under this section to retail customers in Wisconsin.
- (8) Pricing Options. A retail utility may sell power and energy received from new renewable energy resources through any one or more of the following methods:
  - (a) Allocating costs equally on a per kWh basis to all customers;
  - (b) Reselling the power under green pricing programs approved by the commission;
  - (c) Other pricing structures approved by the commission.

## **Kunkel, Mark**

---

**From:** Margaret Becker [becker@cwpb.com]  
**Sent:** Friday, September 18, 1998 10:52 AM  
**To:** Kunkel, Mark  
**Subject:** Revisions to Burke Pub. Ben. Bill

Mark:

Here is a definition of customer applications of renewable energy:

"Renewable generation or generation displacement that is located on the customer's premises."

The other item outstanding from our meeting on Wednesday was the formula for calculating low-income need. I discussed it with Bob Jones from WISCAP who confirmed that the average annual income is a number set based on extrapolations, not by taking an average of a total income figure. Since there is no total income figure, the formula in the bill as currently drafted should remain. There is no total income figure.

please do not hesitate to call me if you have any further questions, or if you have found out the source of your book stands.

Margaret

D-NOTE

1997 SENATE BILL 517

99-0246/1

Fri. AM

March 19, 1998 - Introduced by Senator BURKE, cosponsored by Representative R. POTTER. Referred to Committee on Agriculture and Environmental Resources.

RM NOT RUN

Sen Cat.

1 AN ACT *to amend* 196.374 (1); and *to create* 15.07 (1) (a) 7., 15.07 (1) (d), 15.792,

2 20.155 (1m), 25.17 (1) (kx), 25.96, 196.374 (4), 196.378 and 196.96 of the

3 statutes; **relating to:** establishing programs for low-income energy

4 assistance, improving energy conservation and efficiency markets and

5 encouraging the development and use of renewable resources, creating a public

6 benefits ~~and energy assistance~~ board, establishing a public benefits ~~and energy~~ <sup>utility</sup>

7 assistance fund, requiring electric utilities and retail cooperatives to charge

8 access fees to customers and members, imposing requirements on the use of

9 renewable resources by electric ~~and~~ <sup>utility</sup> utilities and cooperatives, requiring the

10 exercise of rule-making authority, making appropriations and providing a

11 penalty.

**Analysis by the Legislative Reference Bureau**

This bill creates a public benefits ~~and energy assistance~~ board (board), which is required to establish ~~and administer~~ programs for providing energy assistance to low-income households and conservation and efficiency services to eligible recipients and for encouraging the development and use of renewable energy

**SENATE BILL 517**

*Utility*

resources. The bill also imposes certain requirements on the generation of electricity from renewable energy resources by public utilities and retail cooperative associations.

*Public benefits and energy assistance board*

The board, which is attached to the public service commission (PSC), is required to establish programs for each of the following: 1) assisting low-income households with weatherization and energy conservation services and payment of energy bills (low-income assistance programs); 2) providing energy conservation and efficiency services to eligible recipients (conservation programs); and 3) encouraging the development and use of renewable energy resources (renewables programs). The board must hold a hearing before establishing the programs. Interested persons, including members of the public, may intervene in a hearing and, under certain circumstances, receive compensation from the PSC for the reasonable costs of intervention.

The bill requires the division of housing in ~~DMA~~ *must be a nonprofit corporation* to contract with certain nonprofit or governmental entities for the administration of the low-income assistance programs. The board ~~may~~ *must* contract with ~~the same types of entities~~ for the administration of the conservation and renewables programs. Under the low-income assistance programs, in each fiscal year, no less than the difference between \$50,000,000 and the amount of funding received by the state under certain federal low-income assistance and weatherization programs (federal programs) must be used for purposes other than paying energy bills. The bill also specifies the ~~minimum~~ amounts that must be used for certain purposes under the conservation and renewables programs.

The programs established by the board are funded by an access fee that the board collects from nonmunicipal electric public utilities, which must charge the access fees to their customers. Municipal electric public utilities and retail electric cooperatives (municipal utilities and cooperatives) are also required to charge an access fee to their customers or members. Every 3 years, a municipal utility or cooperative may elect to contribute all or a specified portion of the access fees to the board for the programs established by the board. A municipal utility or cooperative that does not elect to contribute all of the access fees to the board must spend specified portions of the access fees on its own "commitment to community programs", which are defined as low-income assistance programs, energy conservation programs and programs for promoting the welfare of communities that include the municipal utility's or cooperative's customers or members.

The bill directs the board to determine the amount of an access fee that must be charged by nonmunicipal public utilities, municipal utilities and cooperatives. Each municipal utility and cooperative must charge an access fee that is sufficient for the utility or cooperative to collect an annual average of \$13.16 per meter ~~for each customer or member~~. However, for the period ending on June 30, 2008, the amount of the access fee ~~paid by an individual customer or member~~ may not exceed 3% of the total of every other charge ~~that is billed to the customer or member~~ during that period.

*of measured service*

*any increase to an electric bill that is based on*

*the department of administration*

## SENATE BILL 517

1999-2000

INSERT A1

For nonmunicipal utilities, the board must determine the amount of the access fee as follows. In fiscal year ~~1998-99~~, a portion of the access fee must be in an amount that is sufficient for the board to collect from the nonmunicipal electric utilities the amount that results from subtracting the sum of the following from \$105,000,000:

1) the amount received by the state under the federal programs; and 2) 50% of the access fees charged by municipal utilities and cooperatives. For fiscal years after

~~1998-99~~, the amount is determined by subtracting the same amounts from an amount of low-income need ~~that is determined by the board~~. The remaining portion of the access fee must be sufficient for the board to collect from nonmunicipal utilities

the amount that results from subtracting the sum of the following from \$112,000,000: 1) the amount of funding received under the federal programs; and 2)

20% of the access fees charged by municipal utilities and cooperatives. After fiscal year ~~2000-01~~, the board may reduce the amount that must be collected from the

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nonmunicipal utility is subject to the same 3% limit that applies to ~~an access fee paid by a customer or member of a municipal utility or cooperative~~.

The bill also requires certain electric utilities to spend a portion of the access fees on energy conservation programs, rather than paying the entire amount to the board. Under current law, certain electric utilities are required to spend at least 0.5%

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The bill imposes other requirements on the board's programs and the commitment to community programs, including the following:

1. The bill requires public utilities to allow electric customers to make contributions to the board's programs or the commitment to community programs.

2. For purposes of determining whether a municipal utility or cooperative has spent a required amount on a commitment to community program, the bill allows a municipal utility or cooperative to receive credit for any spending by its wholesale electric supplier on the supplier's own commitment to community programs.

3. The bill imposes certain reporting requirements on municipal utilities and cooperatives that spend access fees on commitment to community programs.

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Under this bill, a certain percentage of the electricity generated by a public utility or retail cooperative association must be generated from renewable energy resources. The percentage is calculated on the basis of a public utility's or retail cooperative association's "system peak load share", which is defined as the amount of electricity that the public utility or retail cooperative association delivered to its customers or members at that time during the summer of 1996 that the maximum amount of electricity was delivered to all customers and members of all public utilities and retail cooperative associations. The following percentages of a public utility's or retail cooperative association's system peak load share must be generated

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**SENATE BILL 517**

from renewable resources: 1% by December 31, 2000; 1.5% by December 31, 2002; 2% by December 31, 2004; 2.5% by December 31, 2006; 3% by December 31, 2008; and 4% by December 31, 2010.

The bill allows a municipal public utility or retail cooperative association to receive a credit for the amount of electricity generated from renewable resources by its wholesale supplier. In addition, the bill allows public utilities and retail cooperative associations to purchase credits from other public utilities and retail cooperative associations that generate electricity from renewable resources in excess of the required percentages of system peak load share. A public utility or retail cooperative association that purchases such a credit may use the credit for purposes of determining whether it satisfies a required percentage. The PSC must promulgate rules establishing requirements and procedures for sales of such credits.

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

INSERT  
A2

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

1 SECTION 1. 15.07 (1) (a) 7. of the <sup>utility</sup> statutes is created to read:

2 15.07 (1) (a) 7. Members of the public benefits ~~and energy assistance~~ board  
3 appointed under s. 15.792 (1) (b) or (c) shall be appointed as provided in s. 15.792 (1)  
4 (b) or (c) without senate confirmation.

5 SECTION 2. 15.07 (1) (d) of the statutes is created to read:

6 15.07 (1) (d) Except as provided in s. 15.792 (1) (b) 5. or 8. or (c), no member  
7 appointed to the <sup>utility</sup> public benefits ~~and energy assistance~~ board may be an employe of  
8 a utility, as defined in <sup>s.</sup> 196.374 (1).

9 SECTION 3. 15.792 of the statutes is <sup>CS</sup> created to read:

10 15.792 Same; attached board. PUBLIC BENEFITS AND ENERGY ASSISTANCE  
11 BOARD. (1) (a) In this subsection:

- 12 1. "Electric utility" has the meaning given in s. 196.96 (1) (f).
- 13 2. "Low-income household" has the meaning given in s. 196.96 (1) (L).
- 14 3. "Municipal utility" has the meaning given in s. 196.96 (1) (p).

SENATE BILL 517

1           4. “Renewable resource” has the meaning given in s. 196.378 (1) (g).

2           5. “Retail cooperative” has the meaning given in s. 196.96 (1) (r).

3           6. “Small business” has the meaning given in s. 16.75 (4) (c).

4           7. “Small business representative” means a director, manager, member, officer,  
5 owner or partner of a small business.

6           (b) There is created a <sup>utility</sup> public benefits and energy assistance board that is  
7 attached to the public service commission under s. 15.03. The board shall consist of  
8 the following members appointed for 3-year terms:

9           1. One member appointed by the governor who is a member of a low-income  
10 household or who represents a low-income household advocacy group.

11           2. One member appointed by the president of the senate who is a residential  
12 electric utility customer or who represents a residential electric utility customer  
13 advocacy group.

14           3. One member appointed by the governor who is a small business  
15 representative or who represents a small business advocacy group.

16           4. One member appointed by the president of the senate who represents an  
17 environmental or renewable resource advocacy group.

18           5. One member appointed by the president of the senate who represents ~~a~~ a  
19 municipal utility or retail cooperative or municipal utility or retail cooperative  
20 advocacy group.

21           6. One member appointed by the speaker of the assembly who is a member of  
22 a low-income household or who represents a low-income household advocacy group.

23           7. One member appointed by the speaker of the assembly who represents an  
24 environmental or renewable resource advocacy group.



## SENATE BILL 517

## SECTION 3

1           8. One member appointed by the speaker of the assembly who represents an  
2 electric utility or electric utility advocacy group.

3           9. One member appointed by the chairperson of the public service commission  
4 to represent the public service commission.

5           10. One member appointed by the secretary of natural resources to represent  
6 the department of natural resources.

7           11. One member appointed by the administrator of the division of housing in  
8 the department of administration to represent the division of housing.

9           (c) 1. a. Notwithstanding par. (b) (intro.) and 5., if fewer than one-third of the  
10 municipal utilities and retail cooperatives doing business in this state notify the  
11 board under s. 196.96 (5) (b) 1. that they have elected ~~to~~ to contribute to any of the  
12 programs established under s. 196.96 (2) (a) or (b), the president of the senate shall  
13 appoint a representative of an electric utility or electric utility advocacy group to  
14 succeed the member appointed under par. (b) 5. and the member appointed under  
15 par. (b) 5. shall vacate his or her membership at the time that the member is  
16 appointed under this subd. 1. a. A member appointed under this subd. 1. a. shall  
17 serve on the board until a member is appointed under subd. 2.

18           b. If one-third or more of the municipal utilities and retail cooperatives doing  
19 business in this state notify the board under s. 196.96 (5) (b) 1. that they have elected  
20 to contribute to any of the programs established under s. 196.96 (2) (a) or (b), the  
21 member appointed under par. (b) 5. shall serve for a term expiring on the first day  
22 of the 48th month beginning after the effective date of this subd. 1. b. .... [revisor  
23 inserts date].

24           2. a. If one-third or more of the municipal utilities and retail cooperatives doing  
25 business in this state notify the board under s. 196.96 (5) (b) 2. that they have elected

SENATE BILL 517

1 to contribute to any of the programs established under s. 196.96 (2) (a) or (b), the  
2 president of the senate shall appoint one member to the board who is a  
3 representative of a municipal utility or retail cooperative or municipal utility or  
4 retail cooperative advocacy group for a 3-year term.

5 b. Notwithstanding par. (b) (intro.) or 5., if fewer than one-third of the  
6 municipal utilities and retail cooperatives doing business in this state notify the  
7 board under s. 196.96 (5) (b) 2. that they have elected ~~to~~ to contribute to any of the  
8 programs established under s. 196.96 (2) (a) or (b), the president of the senate shall  
9 appoint a member to the board who is a representative of an electric utility or electric  
10 utility advocacy group for a 3-year term.

11 SECTION 4. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
12 the following amounts for the purposes indicated:

1999-00 2000-01  
~~1997-98 1998-99~~

14 20.155 Public service commission

15 (1m) <sup>UTILITY</sup> PUBLIC BENEFITS AND ENERGY ASSISTANCE BOARD

16 (s) Compensation of intervenors SEG A 500,000 500,000

17 SECTION 5. 20.155 (1m) of the statutes is created to read:

18 20.155 (1m) <sup>UTILITY</sup> PUBLIC BENEFITS AND ENERGY ASSISTANCE BOARD. (g) General  
19 program operations. From the <sup>utility</sup> public benefits and energy assistance fund, a sum  
20 sufficient for general program operations of the <sup>utility</sup> public benefits and energy  
21 assistance board.

22 (r) Grants. From the <sup>utility</sup> public benefits and energy assistance fund, a sum  
23 sufficient for low-income assistance grants under s. 196.96 (2) (a) and energy  
24 conservation and efficiency and renewable resource grants under s. 196.96 (2) (b).

SENATE BILL 517

SECTION 5

1 (s) Compensation of intervenors. From the <sup>utility</sup> public benefits ~~and energy~~  
 2 ~~assistance~~ fund, the amounts in the schedule for compensating persons who  
 3 intervene in hearings under the rules promulgated under s. 196.96 (2) (e) 3.

4 SECTION 6. 25.17 (1) <sup>XM</sup> of the statutes is created to read:  
 5 25.17 (1) <sup>XM</sup> ~~(1)~~ <sup>Utility</sup> Public benefits ~~and energy~~ assistance fund (s. 25.96);

6 SECTION 7. 25.96 of the statutes is created to read:  
 7 25.96 <sup>Utility</sup> ~~Public benefits and energy~~ assistance fund. There is established  
 8 a separate nonlapsible trust fund designated as the <sup>utility</sup> public benefits ~~and energy~~  
 9 ~~assistance~~ fund, consisting of the access fees received under s. 196.96 (4) (a) and (5)  
 10 (c) and (d) and contributions received under s. 196.96 (2) (f) and (g).

11 SECTION 8. 196.374 (1) of the statutes is amended to read:

12 196.374 (1) In this section, "utility" means a class A gas or electric utility, as  
 13 defined by the commission. Every utility shall spend ~~annually at least 0.5% of its~~  
 14 ~~total annual operating revenues~~ the amount specified in s. 196.96 (4) (d) 1. on  
 15 programs designed to promote and accomplish energy conservation. ~~The commission~~  
 16 ~~may require a utility to spend annually, for the purpose of promoting and~~  
 17 ~~accomplishing energy conservation, an amount which is more or less than 0.5% of its~~  
 18 ~~annual operating revenues if, after notice and hearing, the commission finds that the~~  
 19 ~~expenditure of such amount is in the public interest.~~

20 SECTION 9. 196.374 (4) of the statutes is created to read:

21 196.374 (4) This section does not apply after June 30, 2002.

22 SECTION 10. 196.378 of the statutes is created to read:

23 196.378 Renewable resources. (1) DEFINITIONS. In this section:

24 (a) "Biomass" means a resource that generates energy from wood or plant  
 25 material or residue, biological waste, crops grown for use as a resource or landfill

1997-98 STAFFS.  
 Mary T. Staffs.

1 gases. "Biomass" does not include garbage, as defined in s. 289.01 (9), or industrial,  
2 commercial or household waste.

3 (b) "Capacity" means the amount of electricity that an electric ~~gas~~ <sup>gas</sup> provider  
4 is capable of delivering to its customers or members at a specified time.

5 (c) "Conventional resource" means a resource that generates energy from coal,  
6 oil, nuclear power or natural gas, except for natural gas used in a fuel cell.

7 (d) "Electric ~~gas~~ <sup>gas</sup> provider" means an electric ~~gas~~ <sup>gas</sup> utility or retail  
8 cooperative.

9 (e) "Electric ~~gas~~ <sup>gas</sup> utility" means a public utility that generates, transmits,  
10 delivers or furnishes electricity ~~gas~~ <sup>gas</sup>.

11 (f) "Municipal utility" means an electric ~~gas~~ <sup>gas</sup> utility that is owned or operated  
12 wholly by a municipality.

13 (g) "Renewable resource" means any of the following:

14 1. A resource that generates energy from any of the following:

15 a. A fuel cell that uses, as determined by the commission, a renewable fuel.

16 b. Tidal action.

17 c. Solar photovoltaic energy.

18 d. Wind power.

19 e. Geothermal technology.

20 f. Hydroelectric power.

21 g. Biomass.

22 2. Any other resource, except a conventional resource, that the commission

23 designates as a renewable resource in rules promulgated under sub. (4). (a) ✓

## SENATE BILL 517

1 (h) "Renewable resource credit" means a percentage by which an electric ~~gas~~  
2 provider's renewable resource percentage exceeds a percentage of the electric ~~gas~~  
3 provider's system peak load share specified in sub. (2) (a) 1. to 6.

4 (i) "Renewable resource percentage" means the percentage of an electric ~~gas~~  
5 provider's capacity that is generated from renewable resources.

6 (j) "Resource" means a source of electric power generation.

7 (k) "Retail cooperative" means a cooperative association organized under ch.  
8 185 for the purpose of providing electricity ~~gas~~ at retail to its members only.

9 (L) "System peak load" means the maximum amount of electricity that was  
10 delivered to all customers or members of all electric ~~gas~~ providers at any one time  
11 during the period from May 1, 1996, to September 15, 1996.

12 (m) "System peak load share" means the amount of electricity that was  
13 delivered to all customers or members of an electric ~~gas~~ provider by the electric  
14 ~~gas~~ provider at the time that the system peak load was delivered to all customers  
15 or members of all electric ~~gas~~ providers.

16 (2) RENEWABLE RESOURCE PERCENTAGES. (a) The renewable resource percentage  
17 of an electric ~~gas~~ provider, as calculated under par. (b), shall be at least the  
18 following percentages of the electric ~~gas~~ provider's system peak load share:

- 19 1. By December 31, 2000, 1%.
- 20 2. By December 31, 2002, 1.5%.
- 21 3. By December 31, 2004, 2%.
- 22 4. By December 31, 2006, 2.5%.
- 23 5. By December 31, 2008, 3%.
- 24 6. By December 31, 2010, 4%.

## SENATE BILL 517

1 (b) In calculating an electric ~~gas~~ *new* provider's renewable resource percentage  
2 under par. (a), each of the following applies:

3 1. Any amount of capacity that is generated from hydroelectric power and that  
4 is more than 1% of the electric ~~gas~~ *new* provider's system peak load share may not be  
5 counted as part of the provider's capacity that is generated from renewable  
6 resources.

7 1g. An electric ~~gas~~ *new* provider may not count as part of the provider's capacity  
8 that is generated from renewable resources any capacity that the electric provider  
9 is required, as determined by the commission, to generate from renewable resources  
10 under the law of another state.

11 1r. An electric ~~gas~~ *new* provider may count as part of the provider's capacity that  
12 is generated from renewable resources only that capacity which is installed and  
13 rated on the basis of periodic tests.

14 2. The amount of any renewable resource credit purchased by the electric ~~gas~~ *new*  
15 provider under sub. (3) may be counted as part of the provider's capacity that is  
16 generated from renewable resources.

17 3. For a municipal utility or retail cooperative, the amount of any capacity that  
18 the municipal utility or retail cooperative purchases at wholesale and that is  
19 generated from renewable resources may be counted as part of the provider's  
20 capacity that is generated from renewable resources.

21 (3) RENEWABLE RESOURCE CREDITS. An electric ~~gas~~ *new* provider that has a  
22 renewable resource percentage that is more than the percentage of the electric ~~gas~~ *new*  
23 provider's system peak load share specified in sub. (2)(a) 1. to 6. for the applicable  
24 year may sell to any other electric ~~gas~~ *new* provider a renewable resource credit or a

SENATE BILL 517 ✓

INSERT 12-5

1 portion of a renewable resource credit. The commission may promulgate rules that  
2 establish requirements and procedures for a sale under this subsection.

3 (4) RULES. <sup>(a)</sup> The commission may promulgate rules that designate a resource,  
4 except for a conventional resource, as a renewable resource in addition to the  
5 resources specified in sub. (1) (g) 1.

6 (5) PENALTY. Any person who violates sub. (2) (a) shall forfeit no less than  
7 \$10,000 nor more than \$500,000. Forfeitures under this subsection shall be enforced  
8 by action on behalf of the state by the attorney general. A court imposing a forfeiture  
9 under this subsection shall consider all of the following in determining the amount  
10 of the forfeiture:

11 (a) The appropriateness of the forfeiture to the volume of business of the electric  
12 ~~gas~~ provider.

INSERT 12-13 ✓

13 (b) The gravity of the violation.

14 SECTION 11. 196.96 of the statutes is created to read:

15 <sup>Utility</sup> 196.96 ~~Public benefits and energy assistance~~. (1) DEFINITIONS. In this  
16 section:

17 (a) "Board" means the <sup>utility</sup> public benefits ~~and energy assistance~~ board created in  
18 s. 15.792 (1) (b).

19 (b) "Capacity" has the meaning given in s. 196.378 (1) (b).

20 (c) "Community assistance program" means a program to provide assistance  
21 to, or to promote the welfare of, a community that includes the customers or members  
22 of a municipal utility or retail cooperative.

INSERT 12-23

23 (cm) "Commitment to community program" means a program <sup>for</sup> low-income  
24 assistance or a community assistance, energy conservation or load management  
25 program.

INSERT 12-25

## SENATE BILL 517

INSERT 13-1

1 (d) "Division of housing" means the division of housing in the department of  
2 administration.

3 (e) "Electric provider" means an electric utility, retail cooperative or wholesale  
4 cooperative.

5 (f) "Electric utility" means a public utility that generates, transmits, delivers  
6 or furnishes electricity.

7 (g) "Energy conservation program" means a program for reducing the demand  
8 for electricity during any period.

9 (h) "Fiscal year" has the meaning given in s. 655.001 (6).

10 (i) "Load management program" means a program for reducing the demand for  
11 electricity during an electric provider's period of maximum demand.

12 (j) "Local unit of government" means the governing body of any county, city,  
13 town, village or county utility district or the elected tribal governing body of a  
14 federally recognized American Indian tribe or band.

15 (k) "Low-income assistance" means assistance to low-income households for  
16 weatherization and <sup>other</sup> energy conservation services or payment of energy bills.

17 (L) "Low-income household" means any individual or group of individuals in  
18 this state who are living together as one economic unit and for whom residential  
19 electricity is customarily purchased in common or who make undesignated  
20 payments for electricity in the form of rent, and whose household income is not more  
21 than 150% of the poverty line as determined under 42 USC 9902 (2).

22 (m) "Low-income need" means the amount obtained by subtracting from the  
23 total low-income ~~electricity~~ <sup>energy</sup> bills in a fiscal year the product of 2.2% of the average  
24 annual income of low-income households in this state in that fiscal year multiplied  
25 by the number of low-income households in this state in that fiscal year.



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1 (n) "Low-income need percentage" means the percentage that results from  
2 dividing \$105,000,000 by the amount of low-income need in a fiscal year.

1998-99

3 (o) "Low-income need target" means the product of the low-income need  
4 percentage in a fiscal year multiplied by low-income need in a fiscal year.

5 (p) "Municipal utility" means an electric utility that is owned or operated  
6 wholly by a municipality.

7 (q) "Renewable resource" has the meaning given in s. 196.378 (1) (g).

8 (r) "Retail cooperative" means a cooperative association organized under ch.  
9 185 for the purpose of providing electricity at retail to its members only.

10 (s) "Total low-income <sup>energy</sup> ~~electricity~~ bills" means the total amount that all  
11 low-income households are billed for residential <sup>natural gas or heating</sup> ~~electricity~~ <sup>fuel</sup> in  
12 a fiscal year.

13 (t) "Wholesale cooperative" means a cooperative association organized under  
14 ch. 185 for the purpose of providing electricity at wholesale to its members only.

15 (tm) "Wholesale percentage of capacity" means the percentage of a municipal  
16 utility's or retail cooperative's capacity in a fiscal year that is supplied by a wholesale  
17 supplier.

18 (u) "Wholesale supplier" means a wholesale supplier of electricity, including a  
19 wholesale cooperative, to a municipal utility or retail cooperative.

20 (2) BOARD DUTIES. The board shall do all of the following:

21 (a) After holding a hearing, establish programs to be administered by the  
22 department of administration through the division of housing for awarding grants  
23 from the appropriation under s. 20.155 (1m) (r) to provide low-income assistance.

24 A hearing under this paragraph may not be a hearing under s. 227.42 or 227.44. In  
25 each fiscal year, no less than the amount obtained <sup>by</sup> ~~from~~ subtracting from \$50,000,000

by X

1 the sum of all moneys received under 42 USC 6861 to 6873 in a fiscal year shall be  
2 awarded under this paragraph in grants for low-income assistance other than  
3 payment of energy bills.

4 (b) Subject to par. (d), after holding a hearing ~~that is not a hearing under s.~~  
5 ~~227.42 or 227.44~~ establish ~~and administer~~ programs for awarding grants from the  
6 appropriation under s. 20.155 (1m) (r) for each of the following:

7 1. Proposals for providing energy conservation or efficiency services. In  
8 awarding grants under this subdivision, the board shall give priority to proposals  
9 directed at the sectors of energy conservation or efficiency markets that are least  
10 competitive and at promoting environmental protection or rural economic  
11 development. In each fiscal year, ~~at least~~ <sup>at least</sup> 1.75% of the amount obtained by  
12 subtracting from the appropriation under s. 20.155 (1m) (r) the amount awarded  
13 under par. (a) shall be awarded in grants for research and development proposals  
14 regarding the environmental impacts of the electric industry.

15 2. Proposals for encouraging the development or use of customer applications  
16 of renewable resources, including educating customers about renewable resources  
17 or encouraging uses of renewable resources by customers or encouraging research  
18 technology transfers. In each fiscal year, the board shall ensure that ~~at least~~ <sup>at least</sup>  
19 4.5% of the amount obtained by subtracting from the appropriation under s. 20.155  
20 (1m) (r) the amount awarded under par. (a) shall be awarded in grants under this  
21 subdivision.

22 (bm) The board may award grants under par. (b) only for proposals that are  
23 consistent with strategic planning decisions of the commission.

24 (c) For each fiscal year after 1998-99, determine the low-income need target  
25 for that fiscal year.

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2001-02

1 (d) For each fiscal year after ~~2001~~, determine whether to continue,  
 2 discontinue or reduce any of the programs established under par. (b) and determine  
 3 the total amount necessary to fund the programs that the board determines to  
 4 continue or reduce ~~under~~ under this paragraph. An amount determined under this  
 5 paragraph may not ~~be more than~~ exceed \$112,000,000.

X

6 (e) Promulgate rules establishing all of the following:

7 1. Eligibility requirements for low-income assistance under programs  
 8 established under par. (a). The rules shall prohibit a person who receives  
 9 low-income assistance from a municipal utility or retail cooperative under a  
 10 program specified in sub. (5) (d) 2. b. or 3. a. from receiving low-income assistance  
 11 under programs established under par. (a).

12 2. Requirements and procedures for applications for grants awarded under  
 13 programs established under par. (a) or (b).  
 IN SEAT 16-13

14 3. Requirements and procedures that allow an interested person, including a  
 15 member of the public, to intervene in a hearing under par. (a) or (b) (intro.) and allow  
 16 the board to award compensation from the appropriation under s. 20.155 (1m) (s) to  
 17 a person that is not an electric provider for some or all of the reasonable costs of  
 18 intervening in a hearing if the board finds any of the following:

19 a. That the intervention is necessary to provide an adequate presentation of a  
 20 significant position in which the person has a substantial interest and that an  
 21 adequate presentation would not be possible without compensation.

22 b. That the intervention has provided a significant contribution to the  
 23 establishment of a program and has caused a significant financial hardship to the  
 24 person.

SENATE BILL 517

*customers to make*

1 (f) Encourage <sup>*f*</sup> voluntary contributions to assist in funding the programs  
2 established under pars. (a) and (b). The board shall deposit all contributions received  
3 under this paragraph in the <sup>*utility*</sup> public benefits ~~and energy assistance~~ fund.

4 (g) Promulgate rules that require electric utilities to allow customers to include  
5 voluntary contributions to assist in funding a commitment to community program  
6 or a program established under par. (a) or (b) with bill payments for electric service.  
7 The rules may require an electric utility to provide a space on an electric bill in which  
8 a customer may indicate the amount of a voluntary contribution and the customer's  
9 preference regarding whether a contribution should be used for a commitment to  
10 community program or a program established under par. (a) or (b) 1. or 2. The rules  
11 shall establish requirements and procedures for electric utilities to pay to the board  
12 any voluntary contributions included with bill payments, except for voluntary  
13 contributions to a commitment to community program that are received by a  
14 municipal utility that is required under sub. (5) (d) to spend the access fees that it  
15 charges on the commitment to community program, and to report customer  
16 preferences regarding use of the contributions. The board shall deposit all  
17 contributions received under this paragraph in the <sup>*utility*</sup> public benefits ~~and energy~~

18 ~~assistance~~ fund.

19 (h) Deposit all moneys received under sub. (4) (a) or (5) (c) or (d) in the <sup>*utility*</sup> public  
20 benefits ~~and energy assistance~~ fund.

21 (3) CONTRACTS. (a) The division of housing shall, on the basis of competitive  
22 bids, contract with a community action agency described in s. 46.30 (2) (a) 1., a  
23 nonstock, nonprofit corporation organized under ch. 181 or a local unit of government  
24 to administer a program established under sub. (2) (a).

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INSERT 18-1

1 / (b) The board may, on the basis of competitive bids, contract with a community  
 2 action agency described in s. 46.30 (2) (a) 1., a nonstock, nonprofit corporation  
 3 organized under ch. 181 or a local unit of government to administer a program  
 4 established under sub. (2) (b).

5 (4) ELECTRIC UTILITIES. (a) Requirement to charge access fees. Each electric  
 6 utility, except for a municipal utility, shall charge each customer an access fee in an  
 7 amount established in rules promulgated by the board under par. (b). An electric  
 8 utility, except for a municipal utility, shall collect and, except as provided in par. (d)  
 9 2., pay the fees to the board in accordance with the rules promulgated under par. (b).

10 (b) Rules. The board shall promulgate rules that establish the amount of an  
 11 access fee that an electric utility shall charge a customer under par. (a) and  
 12 requirements and procedures for an electric utility to collect and pay the fees to the  
 13 board. Rules promulgated under this paragraph may allow an electric utility to  
 14 charge different fees to different classes of customers, but no class of customers may  
 15 be required to pay, in the aggregate, a disproportionate amount in comparison to any  
 16 other class of customers. The rules shall prohibit an electric utility from itemizing  
 17 an access fee on a customer's bill unless other nonfuel costs are also itemized on the  
 18 bill.

19 (c) Amount of access fees. A fee established in rules promulgated under par. (b)  
 20 shall satisfy each of the following:

21 1. In fiscal year ~~1998-99~~, a portion of the fee shall be an amount that is  
 22 sufficient for the board to receive ~~from all electric utilities~~ the amount obtained by  
 23 subtracting from \$105,000,000 the sum of all moneys received under ~~42 USC 8621~~  
 24 ~~to 8629~~ and ~~42 USC 6861 to 6873~~ <sup>and 42 USC 8621 to 8629</sup> for that fiscal year and 50% of the access fees  
 25 charged by municipal utilities and retail cooperatives under sub. (5) (a) for that fiscal

1999-2000

in access fees

21

23

24

X

SENATE BILL 517

an

1999-2000

and 2001-02

1 year. In each fiscal year after fiscal year ~~1998-99~~, the portion of the fee specified in  
 2 this subdivision shall be ~~an~~ amount that is sufficient for the board to receive from all  
 3 electric utilities the amount obtained by subtracting from the amount of the  
 4 low-income need target determined by the board for that fiscal year under sub. (2)  
 5 (c) the sum of all moneys received under ~~42 USC 8621 to 8629~~ <sup>8621</sup> ~~and~~ 42 USC 6861 to  
 6 ~~6873~~ <sup>and 42 USC (876) to 8629</sup> for that fiscal year and 50% of the access fees charged by municipal utilities and  
 7 retail cooperatives under sub. (5) (a) for that fiscal year.

8 2. For fiscal years ~~1999-2000~~ <sup>1999-2000</sup> and 2000-01, a portion of the fee shall  
 9 be in an amount that is sufficient for the board to receive ~~from all electric utilities~~  
 10 the amount obtained by subtracting from \$112,000,000 20% of the access fees  
 11 charged by municipal utilities and retail cooperatives under sub. (5) (a) for that fiscal  
 12 year. For each fiscal year after ~~2001-02~~ <sup>2001-02</sup>, if the board determines under sub. (2) (d)  
 13 to discontinue or reduce a program established under sub. (2) (b), the portion of the  
 14 fee specified in this subdivision shall be ~~an~~ amount that is sufficient for the board  
 15 to receive from all electric utilities the amount obtained by subtracting from the  
 16 amount of funding determined by the board under sub. (2) (d) 20% of the access fees  
 17 charged by municipal utilities and retail cooperatives under sub. (5) (a) for that fiscal  
 18 year.

19 3. The amount of a fee paid by a customer of an electric utility shall be based  
 20 on the number of meters that provide service to the customer.

21 4. Except as provided in subd. 5., the average annual amount of a fee paid by  
 22 a customer of an electric municipal utility per meter may be no less than \$13.16 nor  
 23 more than \$15.79.

24 For the period beginning on the effective date of this subdivision .... [revisor  
 25 inserts date], and ending on June 30, 2008, the total amount of a fee charged to a

INSERT 19-25

30e

SENATE BILL 517

1 customer of an electric utility may not exceed 3% of the total of every other charge  
2 for which a customer is billed for that period.

3 (d) *Energy conservation programs.* 1. An electric utility shall spend the  
4 following percentage of the <sup>portion of the</sup> access fees that it collects under par. (a) on energy  
5 conservation programs under s. 196.374:

6 a. In fiscal year 1999-2000, 75%.

7 b. In fiscal year 2000-01, 50%.

8 c. In fiscal year 2001-02, 25%.

9 2. An electric utility shall deduct from the amount that the electric utility  
10 is required to pay to the board under par. (a) an amount equal to the amount that it  
11 is required to spend under subd. 1.

12 3. This paragraph does not apply after June 30, 2002.

13 (5) MUNICIPAL UTILITIES AND RETAIL COOPERATIVES. (a) *Requirement to charge*  
14 *access fees.* Each retail cooperative and municipal utility shall charge <sup>a monthly</sup> access fee  
15 to each customer or member in amount that is sufficient for the retail cooperative or  
16 municipal utility to collect an annual average of \$13.16 <sup>per</sup> meter <sup>of measured</sup> that provides  
17 service to each customer or member. A retail cooperative or municipal utility may  
18 determine the amount that a particular customer or member of particular class of  
19 customers or members is required to pay under this paragraph.

20 (am) *Access fee restriction.* Notwithstanding par. (a), for the period beginning  
21 on the effective date of this paragraph .... [revisor inserts date], and ending on June  
22 30, 2008, ~~the total amount of a fee charged to a customer or member under par. (a)~~  
23 may not exceed 3% of the total of every other charge for which <sup>the</sup> member or customer  
24 is billed for that period.

## SENATE BILL 517

1 (b) *Election to contribute to board programs.* 1. No later than the first day of  
2 the 12th month beginning after the effective date of this subdivision .... [revisor  
3 inserts date], each municipal utility or retail cooperative shall notify the board  
4 whether it has elected to contribute to the programs established under sub. (2) (a)  
5 or (b) for a 3-year period.

6 2. No later than every 3rd year after the date specified in subd. 1., each  
7 municipal utility or retail cooperative shall notify the board whether it has elected  
8 to contribute to the programs established under sub. (2) (a) or (b) for a 3-year period.

9 (c) *Full contribution.* If a municipal utility or retail cooperative elects under  
10 par. (b) 1. or 2. to contribute to the programs established both under sub. (2) (a) and  
11 under sub. (2) (b), it shall pay 100% of the access fees that it charges under par. (a)  
12 to the board in each fiscal year of the 3-year period for which it has made the election.

13 (d) *Partial contributions.* A municipal utility or retail cooperative not specified  
14 in par. (c) ~~may use no more than 10% of the access fees that it charges under par. (a)~~  
15 ~~to compensate a wholesale supplier for costs incurred by the wholesale supplier in~~  
16 ~~satisfying a renewable resource percentage requirement under s. 196.378 (2) (a) and~~  
17 shall do one of the following:

18 1. If the municipal utility or retail cooperative elects to contribute only to the  
19 programs established under sub. (2) (a), the municipal utility or retail cooperative  
20 shall, in each fiscal year of the 3-year period for which it elects to contribute under  
21 par. (b) 1. or 2., do all of the following:

22 a. ~~Pay no less than 50% of the access fees that it charges under par. (a) to the~~  
23 board.

24 b. Spend no less than 20% of the access fees that it charges under par. (a) on  
25 energy conservation programs. No more than 10% of the amount that a municipal



## SENATE BILL 517

1 utility or retail cooperative spends on energy conservation programs under this subd.

2 1. b. may be spent on load management programs.

3 c. Spend any remaining amounts on community assistance or load  
4 management programs.

5 2. If the municipal utility or retail cooperative elects to contribute only to the  
6 programs established under sub. (2) (b), the municipal utility or retail cooperative  
7 shall, in each fiscal year of the 3-year period for which it elects to contribute under  
8 par. (b) 1. or 2., do all of the following:

9 a. <sup>dm</sup> ~~Pay~~ *Except as provided in par. (dm) 5* 20% of the access fees that it charges under par. (a) to the board.

10 b. Spend no less than 50% of the access fees that it charges under par. (a) on  
11 programs for low-income assistance.

12 c. Spend any remaining amounts on community assistance or load  
13 management programs.

14 3. If the municipal utility or retail cooperative elects not to contribute to any  
15 of the programs established under sub. (2) (a) or (b), the municipal utility or retail  
16 cooperative shall, in each fiscal year of the 3-year period for ~~it~~ <sup>dm</sup> ~~which~~ elects not to  
17 contribute under par. (b) 1. or 2., do all of the following:

18 a. Spend no less than 50% of the access fees that it charges under par. (a) on  
19 programs for low-income assistance.

20 b. Spend no less than 20% of the access fees that it charges under par. (a) on  
21 energy conservation programs. No more than 10% of the amount that a municipal  
22 utility or retail cooperative spends on energy conservation programs under this subd.

23 3. b. may be spent on load management programs.

24 c. Spend any remaining amounts on community assistance or load  
25 management programs.

SENATE BILL 517

INSERT 23-1

1 (e) *Wholesale supplier credit.* If a wholesale supplier of a municipal utility or  
2 retail cooperative has established a commitment to community program, the  
3 municipal utility or retail cooperative may do any of the following:

4 1. Include an amount equal to the product of the municipal utility's or retail  
5 cooperative's wholesale supply percentage and the amount that the wholesale  
6 supplier has spent on low-income assistance in a fiscal year in calculating the  
7 amount that the municipal utility or retail cooperative has spent on low-income  
8 assistance in that fiscal year under par. (d) 2. b. or 3. a.

9 2. Include an amount equal to the product of the municipal utility's or retail  
10 cooperative's wholesale supply percentage and the amount that the wholesale  
11 supplier has spent on energy conservation programs in a fiscal year in calculating  
12 the amount that the municipal utility or retail cooperative has spent on energy  
13 conservation programs under par. (d) 1. b. or 3. b.

14 (f) *Joint programs.* Municipal utilities or retail cooperatives may establish  
15 joint commitment to community programs, except that each municipal utility or  
16 retail cooperative that participates in a joint program is required to comply with the  
17 spending requirements under par. (d).

18 (g) *Reports.* 1. For each fiscal year, each municipal utility and retail  
19 cooperative that does not pay 100% of the access fee that it charges under par. (a) to  
20 the board under par. (c) shall file a report with the secretary of state that describes  
21 each of the following:

22 a. An accounting of access fees charged to customers or members under par. (a)  
23 in the fiscal year and expenditures on commitment to community programs under  
24 par. (d), including any amounts included in the municipal utility's or retail  
25 cooperative's calculations under par. (e).

INSERT 23-11

SENATE BILL 517

1 b. A description of commitment to community programs established by the  
2 municipal utility or retail cooperative in the fiscal year.

3 2. The secretary of state shall maintain reports filed under subd. 1. for a period  
4 of at least 6 years. *Handwritten scribbles and an 'X' to the right.*

5 **SECTION 12. Nonstatutory provisions.**

6 (1) INITIAL APPOINTMENTS TO <sup>UTILITY</sup> PUBLIC BENEFITS ~~AND ENERGY ASSISTANCE~~ BOARD. *Handwritten scribbles.*

7 Notwithstanding section 15.792 (1) (b) (intro.) of the statutes, as created by this act,  
8 the following initial members of the <sup>utility</sup> public benefits ~~and energy assistance~~ board shall  
9 be appointed by the first day of the 3rd month beginning after the effective date of  
10 this paragraph for the following terms:

11 (a) The members specified in section 15.792 (1) (b) 3., 4. and 9. of the statutes,  
12 as created by this act, for terms expiring on July 1, ~~1999~~ <sup>2000</sup>.

13 (b) The members specified in section 15.792 (1) (b) 1., 2., 8. and 10. of the  
14 statutes, as created by this act, for terms expiring on July 1, ~~2000~~ <sup>2001</sup>.

15 (c) The members specified in section 15.792 (1) (b) 6., 7. and 11. of the statutes,  
16 as created by this act, for terms expiring on July 1, ~~2001~~ <sup>2002</sup>.

17 (2) RENEWABLE RESOURCES STUDY AND REPORT. The public service commission  
18 shall study the feasibility and desirability of allowing customers of public utilities  
19 to pay separate rates for electricity that is generated from renewable resources, as  
20 defined in section 196.378 (1) (g) of the statutes, as created by this act, and evaluate  
21 whether such resources are competitive with conventional resources, as defined in  
22 section 196.378 (1) (c) of the statutes, as created by this act. The commission shall  
23 submit a report on the results of the study and evaluation to the legislature in the  
24 manner provided in section 13.172 (2) of the statutes no later than January 1, 2000.  
25 The report shall include any recommended proposals for legislation, including

**SENATE BILL 517**

9

1 whether the amendment or repeal of section 196.378 of the statutes, as created by  
2 this act, is in the public interest.

3

(END)

D-NOTE

1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0246/lins  
MDK:.....

1  
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INSERT A2: ✓

that is based on the amount of need for fiscal year 1998-99

INSERT A1: ✓

In addition, the PSC must promulgate rules that establish a voluntary system for public utilities and retail cooperative associations to bid, on a statewide basis, for electric capacity generated from renewable resources.

✓ INSERT 12-5:

(b) The commission shall promulgate rules that establish a system for arranging transactions between electric providers and sellers of capacity generated from renewable resources. The system shall include procedures that allow an electric provider to bid, on a statewide basis, for capacity generated from renewable resources. The commission may not require an electric provider to participate in the system established under rules promulgated under this paragraph.

INSERT 12-13: ✓

(6) RECOMMENDATION TO LEGISLATURE. The commission may not recommend the repeal of this section to the legislature unless the commission finds, after a hearing, any of the following:

(a) That the market for renewable resources is competitive with the market for conventional resources.

(b) That the repeal of this section is in the public interest.

INSERT 12-23: ✓

by a municipal utility or retail cooperative

INSERT 12-25: ✓

by a municipal utility or retail cooperative

INSERT 13-1: ✓

1 (cs) "Customer application of renewable resources" means the generation of  
2 electricity from renewable resources that takes place on the premises of a customer  
3 of an electric provider.

4 **INSERT 16-13:** ✓

5 2m. Criteria for the selection of proposals by the corporation specified in sub.  
6 (3) (b).

7 **INSERT 18-1:** ✓

8 (b) The board shall, on the basis of competitive bids, contract with a nonstock,  
9 nonprofit corporation organized under ch. 181 to administer the programs  
10 established under sub. (2) (b), including soliciting proposals, processing grant  
11 applications, selecting, based on criteria specified in rules promulgated under sub.  
12 (2) (e) 2m., proposals for the board to make awards and distributing grants to  
13 recipients.

14 **INSERT 19-25:** ✓

15 the total increase in a customer's electric bills that is based on the requirement  
16 to pay access fees

17 **INSERT 20-22:** ✓

18 the total increase in a customer's or member's electric bills that is based on the  
19 requirement to pay access fees

20 **INSERT 23-1:** ✓

21 (dm) A municipal utility or retail cooperative may use no more than 10% of the  
22 access fee that it charges under par. (a) to compensate a wholesale supplier for the  
23 difference between the market price of electricity that the wholesale supplier  
24 generates from renewable resources constructed after December 31, 1997 and the  
25 market price of electricity generated from conventional resources, as defined in s.

1 196.378 (1) (c). A municipal utility or retail cooperative may deduct from the access  
2 fees that it is required to pay to the board under par. (c) or (d) 1. a. or 2. a. the amount  
3 that it uses to compensate a wholesale supplier under this paragraph.

4 **INSERT 23-11:** ✓

5 or customer applications of renewable resources

6

7

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0246/1dn

MDK:.....

kmg

Senator Burke:

Please review this bill, which incorporates changes to 1997 Senate Bill 517 suggested by the Customers First coalition, very carefully to make sure that it is consistent with your intent. In particular, please note the following:

1. Please review all references to dates and fiscal years. I was not sure about your intent with respect to changing them for the new session. For example, are the dates specified in the definition of "system peak load" in proposed s. 196.378 (1) (L), okay?

2. I changed the name of the board to the "utility public benefits board" because I think that name is more descriptive than the name suggested by the coalition (i.e., public benefits board).

3. Note that the board's duty under proposed s. 196.96 (2) (f) to "encourage" contributions is rather vague. Perhaps we should discuss whether this duty can be made more specific.

4. The bill requires the nonprofit corporation specified in proposed s. 196.96 (3) (b) to select proposals based on criteria specified in rules promulgated by the board. Is this okay?

5. Proposed s. 196.378 (4) (b) requires the PSC to promulgate rules establishing the statewide bidding system requested by the coalition. We should discuss whether this requirement can be made more specific.

6. I'm not sure about the potential consequences of proposed s. 196.378 (6), which prohibits the PSC from making a recommendation regarding repealing proposed s. 196.378 unless it makes certain findings. What if the PSC is asked by the legislature to testify about this section? If it hasn't made the findings, do you intend to prohibit any testimony on this subject?

7. I think that proposed s. 196.96 (2) (a) accomplishes your intent without making a change suggested by the coalition. We may want to discuss this issue.

8. Please note that s. 16.47 (2), stats., states that neither house may pass any bill containing an appropriation until both houses pass the executive budget bill, except that the governor or joint committee on finance or, under certain circumstances, the committee on organization of either house may enact emergency appropriation bills prior to the passage of the executive budget bill. Note that if this bill is introduced and



enacted as an emergency measure prior to passage of the budget, the appropriation set forth in this bill will be repealed by action of the budget bill (which repeals and recreates the appropriations schedule). Therefore, you may wish to include an effective date that is later than the projected date for passage of the budget bill. Finally, you may instead wish to introduce this bill for potential passage after the passage of the budget bill. If you choose this option, please check with me after budget passage to ensure that the cross-references in this bill are still accurate.

If you have any questions or redraft instructions, please contact me.

Mark D. Kunkel  
Legislative Attorney  
266-0131

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0246/1dn  
MDK:kmg:lp

September 30, 1998

Senator Burke:

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enacted as an emergency measure prior to passage of the budget, the appropriation set forth in this bill will be repealed by action of the budget bill (which repeals and recreates the appropriations schedule). Therefore, you may wish to include an effective date that is later than the projected date for passage of the budget bill. Finally, you may instead wish to introduce this bill for potential passage after the passage of the budget bill. If you choose this option, please check with me after budget passage to ensure that the cross-references in this bill are still accurate.

If you have any questions or redraft instructions, please contact me.

Mark D. Kunkel  
Legislative Attorney  
266-0131

0-NOTES

1/19/99

-1089/P1

1999 BILL

By  
Tomorrow  
9:00 am  
if possible

RM NOT  
BVA

Regen

1 AN ACT to amend 196.374 (1); and to create 15.07 (1) (a) 7., 15.07 (1) (d), 15.792,  
 2 20.155 (1m), 25.17 (1) (xm), 25.96, 196.374 (4), 196.378 and 196.96 of the  
 3 statutes; relating to: establishing programs for low-income energy  
 4 assistance, improving energy conservation and efficiency markets and  
 5 encouraging the development and use of renewable resources, creating a utility  
 6 public benefits board, establishing a utility public benefits fund, requiring  
 7 electric utilities and retail cooperatives to charge access fees to customers and  
 8 members, imposing requirements on the use of renewable resources by electric  
 9 utilities and cooperatives, requiring the exercise of rule-making authority,  
 10 making appropriations and providing a penalty.

**Analysis by the Legislative Reference Bureau**

This bill creates a public benefits board (board), which is required to establish programs for providing energy assistance to low-income households and conservation and efficiency services and for encouraging the development and use of renewable energy resources. The bill also imposes certain requirements on the generation of electricity from renewable energy resources by public utilities and retail cooperative associations.

electric

**BILL*****Utility public benefits board***

The board, which is attached to the public service commission (PSC), is required to establish programs for each of the following: 1) assisting low-income households with weatherization and energy conservation services and payment of energy bills (low-income assistance programs); 2) providing energy conservation and efficiency services to eligible recipients (conservation programs); and 3) encouraging the development and use of renewable energy resources (renewables programs). The board must hold a hearing before establishing the programs. Interested persons, including members of the public, may intervene in a hearing and, under certain circumstances, receive compensation from the PSC for the reasonable costs of intervention.

The bill requires the division of housing in the department of administration to contract with certain nonprofit or governmental entities for the administration of the low-income assistance programs. The board must contract with a nonprofit corporation for the administration of the conservation and renewables programs. Under the low-income assistance programs, in each fiscal year, no less than the difference between \$50,000,000 and the amount of funding received by the state under certain federal low-income assistance and weatherization programs (federal programs) must be used for purposes other than paying energy bills. The bill also specifies the amounts that must be used for certain purposes under the conservation and renewables programs.

The programs established by the board are funded by an access fee that the board collects from nonmunicipal electric public utilities, which must charge the access fees to their customers. Municipal electric public utilities and retail electric cooperatives (municipal utilities and cooperatives) are also required to charge an access fee to their customers or members. Every 3 years, a municipal utility or cooperative may elect to contribute all or a specified portion of the access fees to the board for the programs established by the board. A municipal utility or cooperative that does not elect to contribute all of the access fees to the board must spend specified portions of the access fees on its own "commitment to community programs", which are defined as low-income assistance programs, energy conservation programs and programs for promoting the welfare of communities that include the municipal utility's or cooperative's customers or members.

The bill directs the board to determine the amount of an access fee that must be charged by nonmunicipal public utilities, municipal utilities and cooperatives. Each municipal utility and cooperative must charge an access fee that is sufficient for the utility or cooperative to collect an annual average of \$13.16 per meter of measured service. However, for the period ending on June 30, 2008, the amount of any increase to an electric bill that is based on the access fee may not exceed 3% of the total of every other charge billed during that period.

For nonmunicipal utilities, the board must determine the amount of the access fee as follows. In fiscal year 1999-00, a portion of the access fee must be in an amount that is sufficient for the board to collect from the nonmunicipal electric utilities the amount that results from subtracting the sum of the following from \$105,000,000: 1) the amount received by the state under the federal programs; and 2) 50% of the

**BILL**

access fees charged by municipal utilities and cooperatives. For fiscal years after 1999-00, the amount is determined by subtracting the same amounts from an amount of low-income need that is based on the amount of need for fiscal year 1998-99. The remaining portion of the access fee must be sufficient for the board to collect from nonmunicipal utilities the amount that results from subtracting the sum of the following from \$112,000,000: 1) the amount of funding received under the federal programs; and 2) 20% of the access fees charged by municipal utilities and cooperatives. After fiscal year 2001-02, the board may reduce the amount that must be collected from the remaining portion of the access fee if the board discontinues or reduces any of the conservation or renewables programs. The total access fee paid by a customer of a nonmunicipal utility is subject to the same 3% limit that applies to a municipal utility or cooperative.

The bill also requires certain electric utilities to spend a portion of the access fees on energy conservation programs, rather than paying the entire amount to the board. Under current law, certain electric utilities are required to spend at least 0.5% of their annual operating revenues on energy conservation programs. The bill requires instead that, through fiscal year 2001-02, such electric utilities must spend a specified portion of the access fees on energy conservation programs. After fiscal year 2001-02, the electric utilities are not required to spend a portion of the access fees on energy conservation programs, but must pay the entire amount to the board.

The bill imposes other requirements on the board's programs and the commitment to community programs, including the following:

1. The bill requires public utilities to allow electric customers to make contributions to the board's programs or the commitment to community programs.
2. For purposes of determining whether a municipal utility or cooperative has spent a required amount on a commitment to community program, the bill allows a municipal utility or cooperative to receive credit for any spending by its wholesale electric supplier on the supplier's own commitment to community programs.
3. The bill imposes certain reporting requirements on municipal utilities and cooperatives that spend access fees on commitment to community programs.

**Renewable energy resources** *electric electric*

Under this bill, a certain percentage of the electricity generated by a public utility or retail cooperative ~~association~~ must be generated from renewable energy resources. The percentage is calculated on the basis of a public utility's or retail cooperative ~~association's~~ "system peak load share", which is defined as the amount of electricity that the public utility or retail cooperative ~~association~~ delivered to its customers or members at that time during the summer of 1996 that the maximum amount of electricity was delivered to all customers and members of all public utilities and retail cooperative ~~associations~~. The following percentages of a public utility's or retail cooperative ~~association's~~ system peak load share must be generated from renewable resources: 1% by December 31, 2000; 1.5% by December 31, 2002; 2% by December 31, 2004; 2.5% by December 31, 2006; 3% by December 31, 2008; and 4% by December 31, 2010. *electric*

The bill allows a municipal public utility or retail cooperative ~~association~~ to receive a credit for the amount of electricity generated from renewable resources by

*electric*  
*electric*  
*electric*

*VS*

**BILL**

electric  
 a wholesale supplier. In addition, the bill allows public utilities and retail cooperative associations to purchase credits from other public utilities and retail cooperative associations that generate electricity from renewable resources in excess of the required percentages of system peak load share. A public utility or retail cooperative association that purchases such a credit may use the credit for purposes of determining whether it satisfies a required percentage. The PSC must promulgate rules establishing requirements and procedures for sales of such credits. In addition, the PSC must promulgate rules that establish a voluntary system for public utilities and retail cooperative associations to bid, on a statewide basis, for electric capacity generated from renewable resources. electric

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

INSERT A

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

1 SECTION 1. 15.07 (1) (a) 7. of the statutes is created to read:

2 15.07 (1) (a) 7. Members of the utility public benefits board appointed under  
 3 s. 15.792 (1) (b) or (c) shall be appointed as provided in s. 15.792 (1) (b) or (c) without  
 4 senate confirmation.

5 SECTION 2. 15.07 (1) (d) of the statutes is created to read:

6 15.07 (1) (d) Except as provided in s. 15.792 (1) (b) 5. or 8. or (c), no member  
 7 appointed to the utility public benefits board may be an employe of a utility, as  
 8 defined in s. 196.374 (1).

9 SECTION 3. 15.792 of the statutes is created to read:

10 15.792 Same; attached board. UTILITY PUBLIC BENEFITS BOARD. (1) (a) In this  
 11 subsection:

- 12 1. "Electric utility" has the meaning given in s. 196.96 (1) (f).
- 13 2. "Low-income household" has the meaning given in s. 196.96 (1) (L).
- 14 3. "Municipal utility" has the meaning given in s. 196.96 (1) (p).
- 15 4. "Renewable resource" has the meaning given in s. 196.378 (1) (g).

**BILL**

1

5. "Retail/<sup>electric</sup>cooperative" has the meaning given in s. 196.96 (1) (r).

2

6. "Small business" has the meaning given in s. 16.75 (4) (c).

3

7. "Small business representative" means a director, manager, member, officer, owner or partner of a small business.

4

5

(b) There is created a utility public benefits board that is attached to the public service commission under s. 15.03. The board shall consist of the following members appointed for <sup>3</sup>-year terms:

6

7

8

1. One member appointed by the governor who is a member of a low-income household or <sup>a group or organization that</sup> who represents a low-income household <sup>SA</sup> advocacy group.

9

10

2. One member appointed by the president of the senate who is a residential electric utility customer or who represents a residential electric utility customer advocacy group.

11

12

13

3. One member appointed by the governor who is a small business representative or who represents a small business advocacy group.

14

15

4. One member appointed by the president of the senate who represents an environmental or renewable resource advocacy group.

16

17

5. One member appointed by the president of the senate who represents a municipal utility or retail/<sup>electric</sup>cooperative or municipal utility or retail/<sup>electric</sup>cooperative advocacy group.

18

19

20

6. One member appointed by the speaker of the assembly who is a member of a low-income household or <sup>a group or organization that</sup> who represents a low-income household <sup>SA</sup> advocacy group.

21

22

7. One member appointed by the speaker of the assembly who represents an environmental or renewable resource advocacy group.

23

24

8. One member appointed by the speaker of the assembly who represents an electric utility or electric utility advocacy group.

25



**BILL**

1           9. One member appointed by the chairperson of the public service commission  
2 to represent the public service commission.

3           10. One member appointed by the secretary of natural resources to represent  
4 the department of natural resources.

5           11. One member appointed by the administrator of the division of housing in  
6 the department of administration to represent the division of housing.

7           (c) 1. a. Notwithstanding par. (b) (intro.) and 5.,<sup>✓</sup> if fewer than one-third of the  
8 municipal utilities and retail<sup>electric</sup> cooperatives<sup>✓</sup> doing business in this state notify the  
9 board under s. 196.96 (5) (b) 1. that they have elected to contribute to any of the  
10 programs established under s. 196.96 (2) (a) or (b), the president of the senate shall  
11 appoint a representative of an electric utility or electric utility advocacy group to  
12 succeed the member appointed under par. (b) 5.<sup>✓</sup> and the member appointed under  
13 par. (b) 5. shall vacate his or her membership at the time that the member is  
14 appointed under this subd. 1. a.<sup>✓</sup> A member appointed under this subd. 1. a. shall  
15 serve on the board until a member is appointed under subd. 2.<sup>✓</sup>

16           b. If one-third or more of the municipal utilities and retail<sup>electric</sup> cooperatives<sup>✓</sup> doing  
17 business in this state notify the board under s. 196.96 (5) (b) 1. that they have elected  
18 to contribute to any of the programs established under s. 196.96 (2) (a) or (b), the  
19 member appointed under par. (b) 5. shall serve for a term expiring on the first day  
20 of the 48th month beginning after the effective date of this subd. 1. b. .... [revisor  
21 inserts date].

22           2. a. If one-third or more of the municipal utilities and retail<sup>electric</sup> cooperatives<sup>✓</sup> doing  
23 business in this state notify the board under s. 196.96 (5) (b) 2. that they have elected  
24 to contribute to any of the programs established under s. 196.96 (2) (a) or (b), the  
25 president of the senate shall appoint one member to the board who is a

**BILL**

① representative of a municipal utility or retail<sup>electric</sup> cooperative or municipal utility or  
 ② retail<sup>electric</sup> cooperative advocacy group for a 3-year term.

3 b. Notwithstanding par. (b) (intro.) or 5., if fewer than one-third of the  
 ④ municipal utilities and retail<sup>electric</sup> cooperatives doing business in this state notify the  
 5 board under s. 196.96 (5) (b) 2. that they have elected to contribute to any of the  
 6 programs established under s. 196.96 (2) (a) or (b), the president of the senate shall  
 7 appoint a member to the board who is a representative of an electric utility or electric  
 8 utility advocacy group for a 3-year term.

9 **SECTION 4.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
 10 the following amounts for the purposes indicated:

11 1999-00      2000-01

12 **20.155 Public service commission**

13 (1m) UTILITY PUBLIC BENEFITS BOARD

14 (s) Compensation of intervenors      SEG      A      500,000      500,000

15 **SECTION 5.** 20.155 (1m) of the statutes is created to read:

16 20.155 (1m) UTILITY PUBLIC BENEFITS BOARD. (q) *General program operations.*  
 17 From the utility public benefits fund, a sum sufficient for general program operations  
 18 of the utility public benefits board.

19 (r) *Grants.* From the utility public benefits fund, a sum sufficient for  
 20 low-income assistance grants under s. <sup>✓</sup>196.96 (2) (a) and energy conservation and  
 21 efficiency and renewable resource grants under s. <sup>✓</sup>196.96 (2) (b).

22 (s) *Compensation of intervenors.* From the utility public benefits fund, the  
 23 amounts in the schedule for compensating persons who intervene in hearings under  
 24 the rules promulgated under s. <sup>✓</sup>196.96 (2) (e) 3.

## BILL

INSERT 8-7 ✓

1 SECTION 6. 25.17 (1) (xm) of the statutes is created to read:

2 25.17 (1) (xm) Utility public benefits fund (s. 25.96);

3 SECTION 7. 25.96 of the statutes is created to read:

4 **25.96 Utility public benefits fund.** There is established a separate  
5 nonlapsible trust fund designated as the utility public benefits fund, consisting of the  
6 access fees received under s. 196.96 (4) (a) and (5) (c) and (d) and contributions  
7 received under s. 196.96 (2) (f) and (g).

8 SECTION 8. 196.374 (1) of the statutes is amended to read:

9 196.374 (1) In this section, "utility" means a class A gas or electric utility, as  
10 defined by the commission. Every utility shall spend annually at least 0.5% of its  
11 total annual operating revenues the amount specified in s. 196.96 (4) (d) 1. on  
12 programs designed to promote and accomplish energy conservation. The commission  
13 may require a utility to spend annually, for the purpose of promoting and  
14 accomplishing energy conservation, an amount which is more or less than 0.5% of its  
15 annual operating revenues if, after notice and hearing, the commission finds that the  
16 expenditure of such amount is in the public interest.

17 SECTION 9. 196.374 (4) of the statutes is created to read:

18 196.374 (4) This section does not apply after June 30, 2002.

19 SECTION 10. 196.378 of the statutes is created to read:

20 **196.378 Renewable resources.** (1) DEFINITIONS. In this section:

21 (a) "Biomass" means a resource that generates energy from wood or plant  
22 material or residue, biological waste, crops grown for use as a resource or landfill  
23 gases. "Biomass" does not include garbage, as defined in s. 289.01 (9), or industrial,  
24 commercial or household waste.

BILL

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✓

1 (b) "Capacity" means the amount of electricity that an electric provider is  
2 capable of delivering to its customers or members at a specified time.

3 (c) "Conventional resource" means a resource that generates energy from coal,  
4 oil, nuclear power or natural gas, except for natural gas used in a fuel cell.

5 (d) "Electric provider" means an electric utility or retail <sup>electric</sup> cooperative.

6 (e) "Electric utility" means a public utility that generates, transmits, delivers  
7 or furnishes electricity.

8 (f) "Municipal utility" means an electric utility that is owned or operated wholly  
9 by a municipality.

10 (g) "Renewable resource" means any of the following:

11 1. A resource that generates energy from any of the following:

12 a. A fuel cell that uses, as determined by the commission, a renewable fuel.

13 b. Tidal <sup>or wave</sup> action.

14 c. Solar photovoltaic energy. <sup>thermal electric or</sup>

15 d. Wind power.

16 e. Geothermal technology.

17 f. Hydroelectric power.

18 g. Biomass.

19 2. Any other resource, except a conventional resource, that the commission  
20 designates as a renewable resource in rules promulgated under sub. (4) (a).

21 (h) "Renewable resource credit" means <sup>an amount</sup> ~~percentage~~ by which an electric  
22 provider's renewable resource <sup>capacity</sup> ~~percentage~~ exceeds a percentage of the electric  
23 provider's system peak load share specified in sub. (2) (a) 1. to 6. ✓

24 (i) "Renewable resource <sup>capacity</sup> ~~percentage~~" means the <sup>capacity</sup> ~~percentage~~ of an electric  
25 provider <sup>capacity</sup> that is generated from renewable resources.

capable of being

BILL

*electric*

1 (j) "Resource" means a source of electric power generation.

2 (k) "Retail cooperative" means a cooperative association organized under ch.  
3 185 for the purpose of providing electricity at retail to its members only.

4 (L) "System peak load" means the maximum amount of electricity that was  
5 delivered to all customers or members of all electric providers at any one time during  
6 the period from May 1, 1996, to September 15, 1996. ✓

7 (m) "System peak load share" means the amount of electricity that was  
8 delivered to all customers or members of an electric provider by the electric provider  
9 at the time that the system peak load was delivered to all customers or members of  
10 all electric providers.

*(CS) CAPACITY*

*capacity*

11 (2) RENEWABLE RESOURCE ~~PERCENTAGES~~. (a) The renewable resource ~~percentage~~  
12 of an electric provider, as calculated under par. (b), shall be at least the following  
13 percentages of the electric provider's system peak load share:

- 14 1. By December 31, 2000, 1%.
- 15 2. By December 31, 2002, 1.5%.
- 16 3. By December 31, 2004, 2%.
- 17 4. By December 31, 2006, 2.5%.
- 18 5. By December 31, 2008, 3%.
- 19 6. By December 31, 2010, 4%.

*capacity*

20 (b) In calculating an electric provider's renewable resource ~~percentage~~ under  
21 par. (a), each of the following applies:

- 22 1. Any ~~amount of~~ capacity that is *capable of being* generated from hydroelectric power and that  
23 is more than 1% of the electric provider's system peak load share may not be counted  
24 as part of the provider's *renewable resource* capacity ~~that is generated from renewable resources~~.

*that was placed in service before January 1, 1998,*

BILL

1 1g. An electric provider may not count as part of the provider's capacity that  
 2 ~~is generated from renewable resources~~ any <sup>renewable resource</sup> capacity that ~~the electric provider is~~  
 3 required, as determined by the commission, to ~~generate from renewable resources~~  
 4 under the law of another state.

5 1r. An electric provider may count as part of the provider's capacity that is  
 6 ~~generated from renewable resources~~ only <sup>that</sup> capacity <sup>is measured</sup> which is installed and ~~used~~  
 7 on the basis of periodic ~~testing~~ <sup>testing</sup>.

8 2. The amount of any renewable resource credit purchased by the electric  
 9 provider under sub. (3) may be counted as part of the provider's <sup>renewable resource</sup> capacity that ~~is~~  
 10 ~~generated from renewable resources~~.

11 3. For a municipal utility or retail <sup>electric</sup> cooperative, the amount of any <sup>renewable resource</sup> capacity that  
 12 the municipal utility or retail cooperative purchases at wholesale ~~and that is~~  
 13 ~~generated from renewable resources~~ may be counted as part of the provider's  
 14 <sup>renewable resource</sup> capacity that is generated from renewable resources.

INSERT  
11-14

15 (3) RENEWABLE RESOURCE CREDITS. An electric provider that has a renewable  
 16 resource <sup>capacity</sup> ~~percentage~~ that is more than the percentage of the electric provider's  
 17 system peak load share specified in sub. (2) (a) 1. to 6. for the applicable year may  
 18 sell to any other electric provider a renewable resource credit or a portion of a  
 19 renewable resource credit. The commission may promulgate rules that establish  
 20 requirements and procedures for a sale under this subsection.

21 (4) RULES. (a) The commission may promulgate rules that designate a  
 22 resource, except for a conventional resource, as a renewable resource in addition to  
 23 the resources specified in sub. (1) (g) 1.

24 (b) The commission shall promulgate rules that establish a system for  
 25 arranging transactions between electric providers and sellers of <sup>renewable resource</sup> capacity ~~generated~~

## BILL

1 ~~from renewable resources.~~ The system shall include procedures that allow an  
2 electric provider to bid, on a statewide basis, for capacity <sup>that is capable of being</sup> generated from renewable  
3 resources. The commission may not require an electric provider to participate in the  
4 system established under rules promulgated under this paragraph.

5 (5) PENALTY. Any person who violates sub. (2) (a) shall forfeit no less than  
6 \$10,000 nor more than \$500,000. Forfeitures under this subsection shall be enforced  
7 by action on behalf of the state by the attorney general. A court imposing a forfeiture  
8 under this subsection shall consider all of the following in determining the amount  
9 of the forfeiture:

10 (a) The appropriateness of the forfeiture to the volume of business of the electric  
11 provider.

12 (b) The gravity of the violation.

13 (6) RECOMMENDATION TO LEGISLATURE. The commission may not recommend the  
14 repeal of this section to the legislature unless the commission finds, after a hearing,  
15 any of the following:

16 (a) That the market for renewable resources is competitive with the market for  
17 conventional resources.

18 (b) That the repeal of this section is in the public interest.

19 SECTION 11. 196.96 of the statutes is created to read:

20 **196.96 Utility public benefits.** (1) DEFINITIONS. In this section:

21 (a) "Board" means the utility public benefits board created in s. 15.792 (1) (b).

22 (b) "Capacity" has the meaning given in s. 196.378 (1) (b).

23 (c) "Community assistance program" means a program to provide assistance  
24 to, or to promote the welfare of, a community that includes the customers or members  
25 of a municipal utility or retail <sup>electric</sup> cooperative.

**BILL**

1 (cm) "Commitment to community program" means a program by a municipal  
 2 utility of retail <sup>electric</sup> cooperative for low-income assistance or a community assistance,  
 3 energy conservation or load management program by a municipal utility or retail  
 4 cooperative.

5 (cs) "Customer application of renewable resources" means the generation of  
 6 electricity from renewable resources that takes place on the premises of a customer  
 7 of an electric provider.

8 (d) "Division of housing" means the division of housing in the department of  
 9 administration.

10 (e) "Electric provider" means an electric utility, retail <sup>electric</sup> cooperative or wholesale  
 11 <sup>electric</sup> cooperative.

12 (f) "Electric utility" means a public utility that generates, transmits, delivers  
 13 or furnishes electricity.

14 (g) "Energy conservation program" means a program for reducing the demand  
 15 for electricity during any period.

16 (h) "Fiscal year" has the meaning given in s. 655.001 (6).

17 (i) "Load management program" means a program ~~for reducing the demand for~~  
 18 electricity during an electric provider's period of maximum demand.

*that allows an electric provider to control electric usage by customers and reduce*

19 (j) "Local unit of government" means the governing body of any county, city,  
 20 town, village or county utility district or the elected tribal governing body of a  
 21 federally recognized American Indian tribe or band.

22 (k) "Low-income assistance" means assistance to low-income households for  
 23 weatherization and other energy conservation services or payment of energy bills.

24 (L) "Low-income household" means any individual or group of individuals in  
 25 this state who are living together as one economic unit and for whom residential



**BILL**

1 electricity is customarily purchased in common or who make undesignated  
2 payments for electricity in the form of rent, and whose household income is not more  
3 than 150% of the poverty line as determined under 42 USC 9902 (2).

4 (m) “Low-income need” means the amount obtained by subtracting from the  
5 total low-income energy bills in a fiscal year the product of 2.2% of the average  
6 annual income of low-income households in this state in that fiscal year multiplied  
7 by the number of low-income households in this state in that fiscal year.

8 (n) “Low-income need percentage” means the percentage that results from  
9 dividing \$105,000,000 by the amount of low-income need in fiscal year 1998–99.

10 (o) “Low-income need target” means the product of the low-income need  
11 percentage multiplied by low-income need in a fiscal year.

12 (p) “Municipal utility” means an electric utility that is owned or operated  
13 wholly by a municipality.

14 (q) “Renewable resource” has the meaning given in s. 196.378 (1) (g).

15 (r) “Retail/<sup>electric</sup>cooperative” means a cooperative association organized under ch.  
16 185 for the purpose of providing electricity at retail to its members only.

17 (s) “Total low-income energy bills” means the total amount that all low-income  
18 households are billed for residential electricity, natural gas or heating fuel in a fiscal  
19 year.

20 (t) “Wholesale/<sup>electric</sup>cooperative” means a cooperative association organized under  
21 ch. 185 for the purpose of providing electricity at wholesale to its members only.

22 (tm) “Wholesale percentage of capacity” means the percentage of a municipal  
23 utility’s or retail/<sup>electric</sup>cooperative’s capacity in a fiscal year that is supplied by a wholesale  
24 supplier.

**BILL**

1 (u) "Wholesale supplier" means a wholesale supplier of electricity, including a  
2 wholesale <sup>electric</sup> cooperative, to a municipal utility or retail <sup>electric</sup> cooperative.

3 (2) BOARD DUTIES. The board shall do all of the following:

4 (a) After holding a hearing, establish programs to be administered by the  
5 department of administration through the division of housing for awarding grants  
6 from the appropriation under s. 20.155 (1m) (r) to provide low-income assistance.

7 In each fiscal year, no less than the amount obtained by subtracting from  
8 \$50,000,000 the sum of all moneys received under 42 USC 6861 to 6873 in a fiscal  
9 year shall be awarded under this paragraph in grants for low-income assistance  
10 ~~other than payment of energy bills~~ weatherization and other <sup>energy</sup> conservation services

11 (b) Subject to par. (d), after holding a hearing, establish programs for awarding  
12 grants from the appropriation under s. 20.155 (1m) (r) for each of the following:

13 1. Proposals for providing energy conservation or efficiency services. In  
14 awarding grants under this subdivision, the board shall give priority to proposals  
15 directed at the sectors of energy conservation or efficiency markets that are least  
16 competitive and at promoting environmental protection or rural economic <sup>electric system reliability</sup>  
17 development. In each fiscal year, 1.75% of the amount obtained by subtracting from  
18 the appropriation under s. 20.155 (1m) (r) the amount awarded under par. (a) shall  
19 be awarded in grants for research and development proposals regarding the  
20 environmental impacts of the electric industry.

21 2. Proposals for encouraging the development or use of customer applications  
22 of renewable resources, including educating customers about renewable resources  
23 or encouraging uses of renewable resources by customers or encouraging research  
24 technology transfers. In each fiscal year, the board shall ensure that 4.5% of the

**BILL**

1 amount obtained by subtracting from the appropriation under s. 20.155 (1m) (r) the  
2 amount awarded under par. (a) shall be awarded in grants under this subdivision.

3 (bm) The board may award grants under par. (b) only for proposals that are  
4 consistent with strategic ~~planning decisions~~ <sup>energy agreements prepared by</sup> of the commission.

5 (c) For each fiscal year after 1998-99, determine the low-income need target  
6 for that fiscal year.

Under s.  
196  
196.491  
(2)

2002-03

7 (d) For each fiscal year after ~~2002-03~~ determine whether to continue,  
8 discontinue or reduce any of the programs established under par. (b) and determine  
9 the total amount necessary to fund the programs that the board determines to  
10 continue or reduce under this paragraph. An amount determined under this  
11 paragraph may not exceed \$112,000,000.

12 (e) Promulgate rules establishing all of the following:

13 1. Eligibility requirements for low-income assistance under programs  
14 established under par. (a). The rules shall prohibit a person who receives  
15 low-income assistance from a municipal utility or retail <sup>electric</sup> cooperative under a  
16 program specified in sub. (5) (d) 2. b. or 3. a. from receiving low-income assistance  
17 under programs established under par. (a).

18 2. Requirements and procedures for applications for grants awarded under  
19 programs established under par. (a) or (b).

20 2m. Criteria for the selection of proposals by the corporation specified in sub.  
21 (3) (b).

22 3. Requirements and procedures that allow an interested person, including a  
23 member of the public, to intervene in a hearing under par. (a) or (b) (intro.) and allow  
24 the board to award compensation from the appropriation under s. 20.155 (1m) (s) to

**BILL**

1 a person that is not an electric provider for some or all of the reasonable costs of  
2 intervening in a hearing if the board finds any of the following:

3 a. That the intervention is necessary to provide an adequate presentation of a  
4 significant position in which the person has a substantial interest and that an  
5 adequate presentation would not be possible without compensation.

6 b. That the intervention has provided a significant contribution to the  
7 establishment of a program and has caused a significant financial hardship to the  
8 person.

9 (f) Encourage customers to make voluntary contributions to assist in funding  
10 the programs established under pars. (a) and (b).<sup>✓</sup> The board shall deposit all  
11 contributions received under this paragraph in the utility public benefits fund.

12 (g) Promulgate rules that require electric utilities to allow customers to include  
13 voluntary contributions to assist in funding a commitment to community program  
14 or a program established under par. (a) or (b) with bill payments for electric service.

15 The rules may require an electric utility to provide a space on an electric bill in which  
16 a customer may indicate the amount of a voluntary contribution and the customer's

17 preference regarding whether a contribution should be used for <sup>✓</sup> ~~a commitment to~~

18 ~~community program or a program established under par. (a) or (b) 1. or 2.~~<sup>✓</sup> The rules

19 shall establish requirements and procedures for electric utilities to pay to the board

20 any voluntary contributions included with bill payments, <sup>✓</sup> ~~except for voluntary~~

21 ~~contributions to a commitment to community program that are received by a~~

22 ~~municipal utility that is required under sub. (5) (d) to spend the access fees that it~~

23 ~~charges on the commitment to community program,~~ and to report <sup>to the board</sup> customer

24 preferences regarding use of the contributions. The board shall deposit all

25 contributions received under this paragraph in the utility public benefits fund.

## BILL

1 (h) Deposit all moneys received under sub. (4) (a) or (5) (c) or (d) in the utility  
2 public benefits fund.

3 (3) CONTRACTS. (a) The division of housing shall, on the basis of competitive  
4 bids, contract with a community action agency described in s. 46.30 (2) (a) 1., a  
5 nonstock, nonprofit corporation organized under ch. 181 or a local unit of government  
6 to administer a program established under sub. (2) (a).

7 (b) The board shall, on the basis of competitive bids, contract with a nonstock,  
8 nonprofit corporation organized under ch. 181 to administer the programs  
9 established under sub. (2) (b), including soliciting proposals, processing grant  
10 applications, selecting, based on criteria specified in rules promulgated under sub.  
11 (2) (e) 2m., proposals for the board to make awards and distributing grants to  
12 recipients.

13 (4) ELECTRIC UTILITIES. (a) *Requirement to charge access fees.* Each electric  
14 utility, except for a municipal utility, shall charge each customer an access fee in an  
15 amount established in rules promulgated by the board under par. (b). An electric  
16 utility, except for a municipal utility, shall collect and ~~except as provided in par. (d)~~  
17 ~~pay~~ pay the fees to the board in accordance with the rules promulgated under par. (b).

18 (b) *Rules.* The board shall promulgate rules that establish the amount of an  
19 access fee that an electric utility shall charge a customer under par. (a) and  
20 requirements and procedures for an electric utility to collect and pay the fees to the  
21 board. Rules promulgated under this paragraph may allow an electric utility to  
22 charge different fees to different classes of customers, but no class of customers may  
23 be required to pay, in the aggregate, a disproportionate amount in comparison to any  
24 other class of customers. The rules shall prohibit an electric utility from itemizing

**BILL**

1 an access fee on a customer's bill unless <sup>all</sup> other nonfuel costs are also itemized on the  
2 bill.

3 (c) *Amount of access fees.* A fee established in rules promulgated under par. (b) ✓  
4 shall satisfy each of the following:

5 1. In fiscal year <sup>1999-2000</sup> ~~1999-00~~, a portion of the fee shall be an amount that is  
6 sufficient for the board to receive in access fees the amount obtained by subtracting  
7 from \$105,000,000 the sum of all moneys received under 42 USC 6861 to 6873 and  
8 42 USC 8621 to 8629 for that fiscal year and 50% of the access fees charged by  
9 municipal utilities and retail <sup>electric</sup> cooperatives under sub. (5) (a) ✓ for that fiscal year. In  
10 each fiscal year after fiscal year 1999-<sup>2000</sup> ~~00~~, the portion of the fee specified in this  
11 subdivision ✓ shall be an amount that is sufficient for the board to receive from all  
12 electric utilities the amount obtained by subtracting from the amount of the  
13 low-income need target determined by the board for that fiscal year under sub. (2)

14 (c) the sum of all moneys received under 42 USC 6861 to 6873 and 42 USC 8621 to  
15 8629 for that fiscal year and 50% of the access fees charged by municipal utilities and  
16 retail <sup>electric</sup> cooperatives under sub. (5) (a) for that fiscal year.

17 2. For fiscal years 1999-00, 2000-01 and 2001-02, a portion of the fee shall be  
18 in an amount that is sufficient for the board to receive in access fees the amount  
19 obtained by subtracting from \$112,000,000 20% of the access fees charged by  
20 municipal utilities and retail <sup>electric</sup> cooperatives under sub. (5) (a) for that fiscal year. For  
21 each fiscal year after ~~2001-02~~ <sup>2002-03</sup> ✓, if the board determines under sub. (2) (d) to  
22 discontinue or reduce a program established under sub. (2) (b) ✓, the portion of the fee  
23 specified in this subdivision shall be an amount that is sufficient for the board to  
24 receive from all electric utilities the amount obtained by subtracting from the  
25 amount of funding determined by the board under sub. (2) (d) 20% of the access fees

INSERT 19-16 ✓

**BILL**

1 charged by municipal utilities and retail <sup>electric</sup> cooperatives under sub. (5) (a) for that fiscal  
2 year.

3 3. For the period beginning on the effective date of this subdivision .... [revisor  
4 inserts date], and ending on June 30, 2008, the total increase in a customer's electric  
5 bills that is based on the requirement to pay access fees, may not exceed 3% of the  
6 total of every other charge for which the customer is billed for that period.

7 (d) *Energy conservation programs.* 1. An electric utility shall spend the  
8 following percentage of the portion of the access fees specified under par. (c) 2. that  
9 it collects under par. (a) on energy conservation programs under s. 196.374:

10 a. In fiscal year 1999-00, 75%.

11 b. In fiscal year 2000-01, 50%.

12 c. In fiscal year 2001-02, 25%.

13 2. An electric utility shall deduct from the amount that the electric utility is  
14 required to pay to the board under par. (a) an amount equal to the amount that it is  
15 required to spend under subd. 1.

16 3. This paragraph does not apply after June 30, 2002.

17 (5) MUNICIPAL UTILITIES AND RETAIL <sup>ELECTRIC ← CS</sup> COOPERATIVES. (a) *Requirement to charge*  
18 *access fees.* Each retail <sup>electric</sup> cooperative and municipal utility shall charge a monthly  
19 access fee to each customer or member in amount that is sufficient for the retail  
20 <sup>electric</sup> cooperative or municipal utility to collect an annual average of \$13.16 per meter <sup>of</sup>  
21 *measured service.* A retail <sup>electric</sup> cooperative or municipal utility may determine the  
22 amount that a particular class of customers or members is required to pay under this  
23 paragraph. INSERT 20-23 ✓

24 (am) *Access fee restriction.* Notwithstanding par. (a), for the period beginning  
25 on the effective date of this paragraph .... [revisor inserts date], and ending on June

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1 30, 2008, the total increase in a customer's or member's electric bills that is based  
2 on the requirement to pay access fees may not exceed 3% of the total of every other  
3 charge for which the member or customer is billed for that period.

4 (b) *Election to contribute to board programs.* 1. No later than the first day of  
5 the 12th month beginning after the effective date of this subdivision .... [revisor  
6 inserts date], each municipal utility or retail <sup>electric</sup> cooperative shall notify the board  
7 whether it has elected to contribute to the programs established under sub. (2) (a)  
8 or (b) for a 3-year period.

9 2. No later than every 3rd year after the date specified in subd. 1., each  
10 municipal utility or retail <sup>electric</sup> cooperative shall notify the board whether it has elected  
11 to contribute to the programs established under sub. (2) (a) or (b) for a 3-year period.

12 (c) *Full contribution.* If a municipal utility or retail <sup>electric</sup> cooperative elects under  
13 par. (b) 1. or 2. to contribute to the programs established both under sub. (2) (a) and  
14 under sub. (2) (b), it shall pay, except as provided in par. (dm), 100% of the access fees  
15 that it charges under par. (a) to the board in each fiscal year of the 3-year period for  
16 which it has made the election.

17 (d) *Partial contributions.* A municipal utility or retail <sup>electric</sup> cooperative not specified  
18 in par. (c) shall do one of the following:

19 1. If the municipal utility or retail cooperative elects to contribute only to the  
20 programs established under sub. (2) (a), the municipal utility or retail cooperative  
21 shall, in each fiscal year of the 3-year period for which it elects to contribute under  
22 par. (b) 1. or 2., do all of the following:

23 a. Except as provided in par. (dm), pay no less than 50% of the access fees that  
24 it charges under par. (a) to the board.



**BILL**

1           b. Spend no less than 20% of the access fees that it charges under par. (a) on  
2 energy conservation programs. No more than 10% of the amount that a municipal  
3 utility or retail *electric* cooperative spends on energy conservation programs under this subd.

4           1. b. may be spent on load management programs.

5           c. Spend any remaining amounts on community assistance or load  
6 management programs.

7           2. If the municipal utility or retail *electric* cooperative elects to contribute only to the  
8 programs established under sub. (2) (b), the municipal utility or retail *electric* cooperative  
9 shall, in each fiscal year of the 3-year period for which it elects to contribute under  
10 par. (b) 1. or 2., do all of the following:

11           a. Except as provided in par. (dm), *✓* pay 20% of the access fees that it charges  
12 under par. (a) to the board.

13           b. Spend no less than 50% of the access fees that it charges under par. (a) on  
14 programs for low-income assistance.

15           c. Spend any remaining amounts on community assistance or load  
16 management programs.

17           3. If the municipal utility or retail *electric* cooperative elects not to contribute to any  
18 of the programs established under sub. (2) (a) or (b), the municipal utility or retail  
19 *electric* cooperative shall, in each fiscal year of the 3-year period for which it elects not to  
20 contribute under par. (b) 1. or 2., do all of the following:

21           a. Spend no less than 50% of the access fees that it charges under par. (a) on  
22 programs for low-income assistance.

23           b. Spend no less than 20% of the access fees that it charges under par. (a) on  
24 energy conservation programs. No more than 10% of the amount that a municipal

BILL

wholesale  
- supplier compensation

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utility or retail cooperative spends on energy conservation programs under this subd.

2

3. b. may be spent on load management programs.

3

c. Spend any remaining amounts on community assistance or load management programs.

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(dm) A municipal utility or retail cooperative may use no more than 10% of the access fee that it charges under par. (a) to compensate a wholesale supplier for the

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difference between the market price of electricity that the wholesale supplier generates from renewable resources constructed after December 31, 1997, and the

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market price of electricity generated from conventional resources, as defined in s. 196.378 (1) (c). A municipal utility or retail cooperative may deduct from the access

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fees that it is required to pay to the board under par. (c) or (d) 1. a. or 2. a. the amount that it uses to compensate a wholesale supplier under this paragraph.

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(e) Wholesale supplier credit. If a wholesale supplier of a municipal utility or retail cooperative has established a commitment to community programs, the municipal utility or retail cooperative may do any of the following:

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1. Include an amount equal to the product of the municipal utility's or retail cooperative's wholesale supply percentage and the amount that the wholesale

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supplier has spent on low-income assistance in a fiscal year in calculating the amount that the municipal utility or retail cooperative has spent on low-income assistance in that fiscal year under par. (d) 2. b. or 3. a.

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2. Include an amount equal to the product of the municipal utility's or retail cooperative's wholesale supply percentage and the amount that the wholesale

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supplier has spent on energy conservation programs or customer applications of renewable resources in a fiscal year in calculating the amount that the municipal

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as defined s. 196.378 (1) (9)

INSERT 03-13

**BILL**

1 utility or retail<sup>electric</sup> cooperative has spent on energy conservation programs under par.

2 (d) 1. b. or 3. b.

3 (f) *Joint programs.* Municipal utilities or retail<sup>electric</sup> cooperatives may establish  
4 joint commitment to community programs, except that each municipal utility or

5 retail<sup>electric</sup> cooperative that participates in a joint program is required to comply with the  
6 spending requirements under par. (d). ✓

7 (g) *Reports.* 1. For each fiscal year, each municipal utility and retail

8 <sup>electric</sup> cooperative that does not pay 100% of the access fee that it charges under par. (a) to  
9 the board under par. (c) shall file a report with the secretary of state that describes  
10 each of the following:

11 a. An accounting of access fees charged to customers or members under par. (a)  
12 in the fiscal year and expenditures on commitment to community programs under  
13 par. (d), including any amounts included in the municipal utility's or retail  
14 <sup>electric</sup> cooperative's calculations under par. (e).

15 b. A description of commitment to community programs established by the  
16 municipal utility or retail<sup>electric</sup> cooperative in the fiscal year.

17 2. The secretary of state shall maintain reports filed under subd. 1. for at least  
18 6 years.

**SECTION 12. Nonstatutory provisions.**

20 (1) INITIAL APPOINTMENTS TO UTILITY PUBLIC BENEFITS BOARD. Notwithstanding  
21 section 15.792 (1) (b) (intro.) of the statutes, as created by this act, the following  
22 initial members of the utility public benefits board shall be appointed by the first day  
23 of the 3rd month beginning after the effective date of this paragraph for the following  
24 terms:



1

**INSERT A:**

✓ This is a preliminary draft. An analysis will be prepared for a subsequent version.

2

**INSERT 8-7:**

3

**SECTION 1.** 196.374 (1) <sup>X</sup> of the statutes is amended to read:

4

196.374 (1) In this section "utility" means a class A gas or electric utility, as defined by the commission, but does not include a municipal utility, as defined in s. 196.378 (1) (f), or a cooperative association organized under ch. 185. ✓

7

(1g) Every utility shall spend annually at least 0.5% each of the following percentages of its total annual operating revenues in each of the following fiscal years on programs designed to promote and accomplish energy conservation:

10

(1r) The commission may require a utility to spend annually for the purpose of promoting and accomplishing energy conservation, an amount which is more or less than 0.5% the percentage of its annual operating revenues specified in sub. (1g) if, after notice and hearing, the commission finds that the expenditure of such amount is in the public interest.

11

12

13

14

15

History: 1983 a. 27.

**SECTION 2.** 196.374 (1g) (a), (b) and (c) <sup>X</sup> of the statutes are created to read:

16

196.374 (1g) (a) 0.375% in fiscal year 1999-2000 <sup>X</sup>

17

(b) 0.25% in fiscal year 2000-01 <sup>X</sup>

18

(c) 0.125% in fiscal year 2001-02 <sup>X</sup>

19

**SECTION 3.** 196.374 (2) <sup>X</sup> of the statutes is amended to read:

20

196.374 (2) The commission may prescribe all or part of any program to be funded under sub. (1) <sup>✓</sup>(1g). The commission may require that a utility establish a program funded under sub. (1) <sup>✓</sup>(1g) which is applicable only to a group of consumers

21

22

1 specified by the commission because the group has special energy conservation  
2 needs. Such a group may include, but is not limited to, low-income utility  
3 consumers, under guidelines established by the commission.

4 History: 1983 a. 27.

**INSERT 9-1:**

5 (b) "Capacity" means the maximum amount of electricity that an electric  
6 provider is capable of generating as measured on the basis of manufacturer's ratings  
7 or periodic testing.

**INSERT 11-14:**

8  
9 1. The capacity of any facility in which biomass and conventional resource fuels  
10 are fired together shall be determined by multiplying the capacity of the facility by  
11 the ratio of British thermal units that are capable of being generated by the biomass  
12 fuels to the British thermal units that are capable of being generated by the  
13 conventional resource fuels.

**INSERT 19-16:**

14  
15 2. For fiscal year 1999-<sup>2000</sup>~~00~~, a portion of the access fee shall be in an amount that  
16 is sufficient for the board to receive in access fees the amount obtained by subtracting  
17 from \$28,000,000 20% of the access fees charged by municipal utilities and retail  
18 electric cooperatives under sub. (5) (a) for that fiscal year. For fiscal year 2000-01,  
19 a portion of the access fee shall be in an amount that is sufficient for the board to  
20 receive in access fees the amount obtained by subtracting from \$56,000,000 20% of  
21 the access fees charged by municipal utilities and retail electric cooperatives under  
22 sub. (5) (a) for that fiscal year. For fiscal year 2001-02, a portion of the access fee shall  
23 be in an amount that is sufficient for the board to receive in access fees the amount  
24 obtained by subtracting from \$84,000,000 20% of the access fees charged by

1 municipal utilities and retail electric cooperatives under sub. (5) (a) for that fiscal  
2 year. For fiscal year 2002-03, a portion of the access fee shall be in an amount that  
3 is sufficient for the board to receive in access fees the amount obtained by subtracting  
4 from \$112,000,000 20% of the access fees charged by municipal utilities and retail  
5 electric cooperatives under sub. (5) (a) for that fiscal year.

NO  
#

6 **INSERT 20-23:**

7 and may charge different fees to different classes of customers or members

8 **INSERT 23-13:**

9 that is a municipal electric company, as defined in s. 66.073 (3) (d), or is organized  
10 under ch. 185, has established a program for low-income assistance, community  
11 assistance or an energy conservation or load management program,

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1081/P1dn

MDK:.....

1/9

Senator Burke:

Please review this preliminary draft, which is based on changes to LRB-0246/1 that were suggested by Curt Pawlisch, very carefully to make sure that it achieves your intent. In particular, please note the following;

1. I tried to make the requirements of proposed s. 196.378 (2) (b) 1r. consistent with the definition of "capacity" in proposed s. 196.378 (1) (b). Are these provisions okay?
2. Does the draft need to clarify the definition of "capacity" based on proposed s. 196.378 (2) (b) 3.? For example, should the definition specify that capacity is on-site, or installed, or not purchased from other persons? If so, the references to selling renewable resource capacity in proposed s. 196.378 (4) (b) may have to be clarified.
3. Proposed s. 196.378 (2) (b) 4. is intended to achieve your intent regarding the change suggested to the definition of "capacity". Is it okay?
4. The suggested references to "landfill gas or wood" and the prohibition on selling renewable resource credits are not included in proposed s. 196.378 (2) (b) 1. because, based on other provisions of the draft, I think they are redundant.
5. It is not necessary to add "as defined by s. 196.01 (5)" to the reference to "public utility" in the definition of "electric utility" in proposed s. 196.96 (1) (f).
6. I don't think that it is necessary to specify that proposed s. 196.96 (2) (g) does not apply to commitment to community programs.
7. Because the term "electric utility" is defined to not include an electric cooperative, it is not necessary to add the suggested language to proposed s. 196.96 (4) (a).
8. The suggested language regarding "commitment to community programs" is not included in proposed s. 196.96 (5) (d) 1. (intro.), 2. (intro.) and 3. (intro.) because I do not think that it is necessary.
9. The next redraft should revise proposed s. 196.96 (4) (c) 2. Note also that the fiscal years in proposed s. 196.96 (2) (b) are changed to reflect the changes to proposed s. 196.96 (4) (c) 2.

Mark D. Kunkel  
Legislative Attorney  
266-0131



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1089/P1dn  
MDK:jlg:jf

December 3, 1998

Senator Burke:

Please review this preliminary draft, which is based on changes to LRB-0246/1 that were suggested by Curt Pawlisch, very carefully to make sure that it achieves your intent. In particular, please note the following;

1. I tried to make the requirements of proposed s. 196.378 (2) (b) 1r. consistent with the definition of "capacity" in proposed s. 196.378 (1) (b). Are these provisions okay?
2. Does the draft need to clarify the definition of "capacity" based on proposed s. 196.378 (2) (b) 3.? For example, should the definition specify that capacity is on-site, or installed, or not purchased from other persons? If so, the references to selling renewable resource capacity in proposed s. 196.378 (4) (b) may have to be clarified.
3. Proposed s. 196.378 (2) (b) 4. is intended to achieve your intent regarding the change suggested to the definition of "capacity". Is it okay?
4. The suggested references to "landfill gas or wood" and the prohibition on selling renewable resource credits are not included in proposed s. 196.378 (2) (b) 1. because, based on other provisions of the draft, I think they are redundant.
5. It is not necessary to add "as defined by s. 196.01 (5)" to the reference to "public utility" in the definition of "electric utility" in proposed s. 196.96 (1) (f).
6. I don't think that it is necessary to specify that proposed s. 196.96 (2) (g) does not apply to *commitment to community programs*.
7. Because the term "electric utility" is defined to not include an electric cooperative, it is not necessary to add the suggested language to proposed s. 196.96 (4) (a).
8. The suggested language regarding "commitment to community programs" is not included in proposed s. 196.96 (5) (d) 1. (intro.), 2. (intro.) and 3. (intro.) because I do not think that it is necessary.
9. The next redraft should revise proposed s. 196.96 (4) (c) 2. Note also that the fiscal years in proposed s. 196.96 (2) (b) are changed to reflect the changes to proposed s. 196.96 (4) (c) 2.

Mark D. Kunkel  
Legislative Attorney  
266-0131

Cullen  
Weston  
Pines  
& Bach

Attorneys at Law

122 West Washington Avenue  
Suite 900  
Madison, Wisconsin 53703  
(608) 251-0101  
(608) 251-2883 Fax

December 4, 1998

Mr. Mark Kunkel  
Legislative Reference Bureau  
100 N. Hamilton Street  
P.O. Box 2037  
Madison, WI 53701-2037

Re: LRB-1089/P1

Dear Mark:

Per our meeting this morning, the following are my suggestions to resolve the matters we discussed.

1. I believe the following definition of "capacity" should work in sec. 196.378(1)(b):

"Capacity" means the maximum amount of electricity that an electric provider is capable of generating as measured on the basis of manufacturer's ratings or periodic testing, or that an electric provider is capable of delivering to its customers through executed wholesale purchase contracts, and that is used to meet the electric provider's retail load obligations.

2. Landfill gas and wood are both considered "biomass," so they are included within the definition of "renewable resource" in the current bill draft. Therefore, please add landfill gas and wood to the 1% cap provision in sec. 196.378(2)(b)(1).

3. Sec. 196.378(2)(b)(1r) should be retained despite our inclusion of wholesale capacity purchases within the definition of countable capacity. The purpose of (1r) is to ensure that a provider does not count as "capacity" a plant that is under construction and not actually available until two years in the future, for example. That capacity should not be counted until it is installed.

I also neglected to include in my letter to you dated November 30, 1998 a request to add the word "functional" to the definition, to ensure

Lee Cullen  
Lester A. Pines  
Steven A. Bach  
Alison TenBruggencate  
Gordon E. McQuillen  
Carol Grob

Linda L. Harfst  
Margaret Becker  
Curt F. Pawlisch  
Elise Clancy Ruoho  
Mary Wright  
Jordan Loeb

Of Counsel:  
Cheryl Rosen Weston

that idle plants are not counted as capacity. Sec. 196.378(2)(b)(1r) should read as follows:

An electric provider may count as part of the provider's renewable resource capacity only capacity that is installed, functional and is measured on the basis of periodic testing.

4. The latest draft misstates the ratio used to determine the renewable capacity when renewable and non-renewable fuels are cofired. Sec. 196.378(2)(b)(4) should read:

The capacity of any facility in which biomass and conventional resource fuels are fired together shall be determined by multiplying the capacity of the facility by the ratio of British thermal units ~~that are capable of being generated by~~ content of the biomass fuels to the British thermal units ~~that are capable of being generated by the conventional resource~~ content of all the fuels.

5. Since "capacity" is not "generated" or "capable of being generated," the following changes must be made:

Sec. 196.378(1)(i):

"Renewable resource capacity" means the capacity of an electric provider that ~~is capable of being generated~~ derives from renewable resources.

The same change to the phrase "capable of being generated" should be made in sec. 196.378(2)(b)(1) and (4)(b).

6. The definition of "electric provider" should be deleted from section 196.96. (196.96(1)(e)). The phrase is only used in sec. 196.96(1)(i), the definition of "load management program." Since the definition of "electric provider" in sec. 196.96(1)(e) is different from the definition of "electric provider" in sec. 196.378(1)(d), it would be simpler and clearer to delete the definition from sec. 196.96 and revise 196.(1)(i) as follows:

"Load management program" means a program that allows an electric ~~provider utility, retail electric cooperative, or wholesale supplier~~ supplier to control electric usage by customers ~~and~~ to reduce demand for electricity.

7. The definition of "wholesale supplier" and the provision on wholesale supplier credit should be changed to incorporate the change to the latter into the former.

196.96(1)(u) "Wholesale supplier" means a municipal electric company, as defined in s. 66.073(3)(d), or a cooperative organized under ch. 185 that is a wholesale supplier of electricity to a municipal utility or retail electric cooperative.

✓ 196.96(5)(e) *Wholesale supplier credit*. If a wholesale supplier ~~that is a municipal electric company, as defined in s. 66.073(3)(d), or is organized under ch. 185,~~ has established a program for low-income assistance, community assistance or an energy conservation or load management program, a municipal utility or retail electric cooperative that is a customer of the wholesale supplier may do any of the following:

This will change sec. 196.96(5)(dm) as well, making it consistent with the original intent of that section.

8. ✓ We also discussed inclusion of "commitment to community program" in the title of sec. 196.96(5)(d), and inclusion of the prohibition on trading or selling in 196.378(2)(b)(1).

9. ✓ I believe one minor change should be made to the definition of "renewable resource credit". The word "a" on page 8, line 9, should be changed to "the."

Please call me if you have any questions or concerns about these proposed revisions.

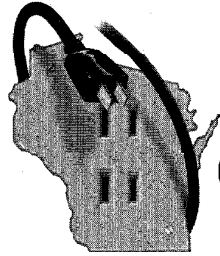
Sincerely,

CULLEN, WESTON, PINES & BACH

  
Margaret Becker

MB/ss

cc: Mr. Barry Ashenfelter



# Customers First!

*Plugging Wisconsin In*

December 9, 1998

Mr. Barry Ashenfelter  
Senator Brian Burke's Office  
119 Martin Luther King, Jr. Blvd., LLI  
Madison, WI 53709

Mr. Mark Kunkel  
Legislative Reference Bureau  
100 N. Hamilton Street  
P.O. Box 2037  
Madison, WI 53701-2037

Re: Energy Public Benefits Bill

Dear Barry and Mark:

The Customers First! Coalition proposes the following changes to the December 3, 1998 draft of the utility public benefits bill, in addition to the changes forwarded on December 4, 1998.

1. Page 3, lines 1-2:

Replace "public service commission" with "department of administration."

The appropriation provisions on page 5 will have to be changed accordingly. The authority to award compensation for participation as advocates in Board hearings ("intervenor") should be moved to the Board.

2. Page 3, line 15:

Replace the sum sufficient appropriation for general program operations with a sum certain.

A Coalition

to Preserve

Wisconsin's

Reliable

and Affordable

Electricity

608.286.0784

888.960.4778 toll free

fax 608.286.6174

P.O. Box 54

Madison, WI 53701




December 9, 1998  
Page 2

---

Please call me if you have any questions or concerns about these proposed revisions.

Sincerely,



Margaret Becker

MB:glb

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1089/P1dn  
MDK:jljg:jf

December 3, 1998

① capacity - generated or purchased

② capacity - not capable of being generated but is from a source

Senator Burke:

Please review this preliminary draft, which is based on changes to LRB-0246/1 that were suggested by Curt Pawlisch, very carefully to make sure that it achieves your intent. In particular, please note the following:

1. I tried to make the requirements of proposed s. 196.378 (2) (b) 1r. consistent with the definition of "capacity" in proposed s. 196.378 (1) (b). Are these provisions okay?

2. Does the draft need to clarify the definition of "capacity" based on proposed s. 196.378 (2) (b) 3.? For example, should the definition specify that capacity is on-site, or installed, or not purchased from other persons? If so, the references to selling renewable resource capacity in proposed s. 196.378 (4) (b) may have to be clarified.

3. Proposed s. 196.378 (2) (b) 4. is intended to achieve your intent regarding the change suggested to the definition of "capacity". Is it okay?

4. The suggested references to "landfill gas or wood" and the prohibition on selling renewable resource credits are not included in proposed s. 196.378 (2) (b) 1. because, based on other provisions of the draft, I think they are redundant.

~~should be removed~~  
to define

5. It is not necessary to add "as defined by s. 196.01 (5)" to the reference to "public utility" in the definition of "electric utility" in proposed s. 196.96 (1) (f).

6. I don't think that it is necessary to specify that proposed s. 196.96 (2) (g) does not apply to commitment to community programs.

7. Because the term "electric utility" is defined to not include an electric cooperative, it is not necessary to add the suggested language to proposed s. 196.96 (4) (a).

8. The suggested language regarding "commitment to community programs" is not included in proposed s. 196.96 (5) (d) 1. (intro.), 2. (intro.) and 3. (intro.) because I do not think that it is necessary.

→ need to restructure so CFC program in titles?

9. The next redraft should revise proposed s. 196.96 (4) (c) 2. Note also that the fiscal years in proposed s. 196.96 (2) (b) are changed to reflect the changes to proposed s. 196.96 (4) (c) 2.

Add -0246/1  
to 1089 file

Mark D. Kunkel  
Legislative Attorney  
266-0131



**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1     **AN ACT** *to amend* 196.374 (1) and 196.374 (2); and *to create* 15.07 (1) (a) 7., 15.07  
2           (1) (d), 15.792, 20.155 (1m), 25.17 (1) (xm), 25.96, 196.374 (1g) (a), (b) and (c),  
3           196.374 (4), 196.378 and 196.96 of the statutes; **relating to:** establishing  
4           programs for low-income energy assistance, improving energy conservation  
5           and efficiency markets and encouraging the development and use of renewable  
6           resources, creating a utility public benefits board, establishing a utility public  
7           benefits fund, requiring electric utilities and retail electric cooperatives to  
8           charge access fees to customers and members, imposing requirements on the  
9           use of renewable resources by electric utilities and cooperatives, requiring the  
10          exercise of rule-making authority, making appropriations and providing a  
11          penalty.

---

***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be prepared for a subsequent version.



For further information see the *state and local* 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.** 15.07 (1) (a) 7. of the statutes is created to read:

2           15.07 (1) (a) 7. Members of the utility public benefits board appointed under  
3 s. 15.792 (1) (b) or (c) shall be appointed as provided in s. 15.792 (1) (b) or (c) without  
4 senate confirmation.

5           **SECTION 2.** 15.07 (1) (d) of the statutes is created to read:

6           15.07 (1) (d) Except as provided in s. 15.792 (1) (b) 5. or 8. or (c), no member  
7 appointed to the utility public benefits board may be an employe of a utility, as  
8 defined in s. 196.374 (1).

9           **SECTION 3.** 15.792 of the statutes is created to read:

10           **15.792 Same; attached board. (1) UTILITY PUBLIC BENEFITS BOARD.** (a) In this  
11 subsection:

12           1. "Electric utility" has the meaning given in s. 196.96 (1) (f).

13           2. "Low-income household" has the meaning given in s. 196.96 (1) (L).

14           3. "Municipal utility" has the meaning given in s. 196.96 (1) (p).

15           4. "Renewable resource" has the meaning given in s. 196.378 (1) (g).

16           5. "Retail electric cooperative" has the meaning given in s. 196.96 (1) (r).

17           6. "Small business" has the meaning given in s. 16.75 (4) (c).

18           7. "Small business representative" means a director, manager, member, officer,  
19 owner or partner of a small business.

---

1 (b) There is created a utility public benefits board that is attached to the public  
2 service commission under s. 15.03. The board shall consist of the following members  
3 appointed for 3-year terms:

4 1. One member appointed by the governor who is a member of a low-income  
5 household or a group or organization that represents low-income households.

6 2. One member appointed by the president of the senate who is a residential  
7 electric utility customer or who represents a residential electric utility customer  
8 advocacy group.

9 3. One member appointed by the governor who is a small business  
10 representative or who represents a small business advocacy group.

11 4. One member appointed by the president of the senate who represents an  
12 environmental or renewable resource advocacy group.

13 5. One member appointed by the president of the senate who represents a  
14 municipal utility or retail electric cooperative or municipal utility or retail electric  
15 cooperative advocacy group.

16 6. One member appointed by the speaker of the assembly who is a member of  
17 a low-income household or a group or organization that represents low-income  
18 households.

19 7. One member appointed by the speaker of the assembly who represents an  
20 environmental or renewable resource advocacy group.

21 8. One member appointed by the speaker of the assembly who represents an  
22 electric utility or electric utility advocacy group.

23 9. One member appointed by the chairperson of the public service commission  
24 to represent the public service commission.

1           10. One member appointed by the secretary of natural resources to represent  
2 the department of natural resources.

3           11. One member appointed by the administrator of the division of housing in  
4 the department of administration to represent the division of housing.

5           (c) 1. a. Notwithstanding par. (b) (intro.) and 5., if fewer than one-third of the  
6 municipal utilities and retail electric cooperatives doing business in this state notify  
7 the board under s. 196.96 (5) (b) 1. that they have elected to contribute to any of the  
8 programs established under s. 196.96 (2) (a) or (b), the president of the senate shall  
9 appoint a representative of an electric utility or electric utility advocacy group to  
10 succeed the member appointed under par. (b) 5. and the member appointed under  
11 par. (b) 5. shall vacate his or her membership at the time that the member is  
12 appointed under this subd. 1. a. A member appointed under this subd. 1. a. shall  
13 serve on the board until a member is appointed under subd. 2.

14           b. If one-third or more of the municipal utilities and retail electric cooperatives  
15 doing business in this state notify the board under s. 196.96 (5) (b) 1. that they have  
16 elected to contribute to any of the programs established under s. 196.96 (2) (a) or (b),  
17 the member appointed under par. (b) 5. shall serve for a term expiring on the first  
18 day of the 48th month beginning after the effective date of this subd. 1. b. .... [revisor  
19 inserts date].

20           2. a. If one-third or more of the municipal utilities and retail electric  
21 cooperatives doing business in this state notify the board under s. 196.96 (5) (b) 2.  
22 that they have elected to contribute to any of the programs established under s.  
23 196.96 (2) (a) or (b), the president of the senate shall appoint one member to the board  
24 who is a representative of a municipal utility or retail electric cooperative or  
25 municipal utility or retail electric cooperative advocacy group for a 3-year term.

1           b. Notwithstanding par. (b) (intro.) or 5., if fewer than one-third of the  
2 municipal utilities and retail electric cooperatives doing business in this state notify  
3 the board under s. 196.96 (5) (b) 2. that they have elected to contribute to any of the  
4 programs established under s. 196.96 (2) (a) or (b), the president of the senate shall  
5 appoint a member to the board who is a representative of an electric utility or electric  
6 utility advocacy group for a 3-year term.

7           **SECTION 4.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
8 the following amounts for the purposes indicated:

	1999-00	2000-01
<b>20.155 Public service commission</b>		

11           (1m) UTILITY PUBLIC BENEFITS BOARD

(s) Compensation of intervenors	SEG    A	500,000	500,000
---------------------------------	----------	---------	---------

13           **SECTION 5.** 20.155 (1m) of the statutes is created to read:

14           20.155 (1m) UTILITY PUBLIC BENEFITS BOARD. (q) *General program operations.*

15           From the utility public benefits fund, a sum sufficient for general program operations  
16 of the utility public benefits board.

17           (r) *Grants.* From the utility public benefits fund, a sum sufficient for  
18 low-income assistance grants under s. 196.96 (2) (a) and energy conservation and  
19 efficiency and renewable resource grants under s. 196.96 (2) (b).

20           (s) *Compensation of intervenors.* From the utility public benefits fund, the  
21 amounts in the schedule for compensating persons who intervene in hearings under  
22 the rules promulgated under s. 196.96 (2) (e) 3.

23           **SECTION 6.** 25.17 (1) (xm) of the statutes is created to read:

24           25.17 (1) (xm) Utility public benefits fund (s. 25.96);

1           **SECTION 7.** 25.96 of the statutes is created to read:

2           **25.96 Utility public benefits fund.** There is established a separate  
3 nonlapsible trust fund designated as the utility public benefits fund, consisting of the  
4 access fees received under s. 196.96 (4) (a) and (5) (c) and (d) and contributions  
5 received under s. 196.96 (2) (f) and (g).

6           **SECTION 8.** 196.374 (1) of the statutes is amended to read:

7           196.374 (1) In this section "utility" means a class A gas or electric utility, as  
8 defined by the commission, but does not include a municipal utility, as defined in s.  
9 196.378 (1) (f), or a cooperative association organized under ch. 185.

10           (1g) Every utility shall spend annually at least 0.5% each of the following  
11 percentages of its total annual operating revenues in each of the following fiscal  
12 years on programs designed to promote and accomplish energy conservation:

13           (1r) The commission may require a utility to spend annually for the purpose  
14 of promoting and accomplishing energy conservation, an amount which is more or  
15 less than 0.5% the percentage of its annual operating revenues specified in sub. (1g)  
16 if, after notice and hearing, the commission finds that the expenditure of such  
17 amount is in the public interest.

18           **SECTION 9.** 196.374 (1g) (a), (b) and (c) of the statutes are created to read:

19           196.374 (1g) (a) In fiscal year 1999-2000, 0.375%.

20           (b) In fiscal year 2000-01, 0.25%.

21           (c) In fiscal year 2001-02, 0.125%.

22           **SECTION 10.** 196.374 (2) of the statutes is amended to read:

23           196.374 (2) The commission may prescribe all or part of any program to be  
24 funded under sub. (1) (1g). The commission may require that a utility establish a  
25 program funded under sub. (1) (1g) which is applicable only to a group of consumers

1 specified by the commission because the group has special energy conservation  
2 needs. Such a group may include, but is not limited to, low-income utility  
3 consumers, under guidelines established by the commission.

4 **SECTION 11.** 196.374 (4) of the statutes is created to read:

5 196.374 (4) This section does not apply after June 30, 2002.

6 **SECTION 12.** 196.378 of the statutes is created to read:

7 **196.378 Renewable resources. (1) DEFINITIONS.** In this section:

8 (a) "Biomass" means a resource that generates energy from wood or plant  
9 material or residue, biological waste, crops grown for use as a resource or landfill  
10 gases. "Biomass" does not include garbage, as defined in s. 289.01 (9), or industrial,  
11 commercial or household waste.

12 (b) "Capacity" means the maximum amount of electricity that an electric  
13 provider is capable of generating ~~as measured~~ as measured on the basis of manufacturer's ratings  
14 or periodic testing.

15 (c) "Conventional resource" means a resource that generates energy from coal,  
16 oil, nuclear power or natural gas, except for natural gas used in a fuel cell.

17 (d) "Electric provider" means an electric utility or retail electric cooperative.

18 (e) "Electric utility" means a public utility that generates, transmits, delivers  
19 or furnishes electricity.

20 (f) "Municipal utility" means an electric utility that is owned or operated wholly  
21 by a municipality.

22 (g) "Renewable resource" means any of the following:

23 1. A resource that generates energy from any of the following:

24 a. A fuel cell that uses, as determined by the commission, a renewable fuel.

25 b. Tidal or wave action.

Needs to include rate purchaser not just generation  
§ also not a great concept

*also - elec provide*  
*also can get be nuclear - r to use*

- 1 c. Solar thermal electric or photovoltaic energy.
- 2 d. Wind power.
- 3 e. Geothermal technology.
- 4 f. Hydroelectric power.
- 5 g. Biomass. *(wood is biomass)*

6 2. Any other resource, except a conventional resource, that the commission  
7 designates as a renewable resource in rules promulgated under sub. (4) (a).

8 (h) "Renewable resource credit" means an amount by which an electric  
9 provider's renewable resource capacity exceeds a percentage of the electric provider's  
10 system peak load share specified in sub. (2) (a) 1. to 6.

11 (i) "Renewable resource capacity" means the capacity of an electric provider  
12 that is capable of being generated from renewable resources. *→ only retail load*

13 (j) "Resource" means a source of electric power generation. *service capacity*

14 (k) "Retail electric cooperative" means a cooperative association organized  
15 under ch. 185 for the purpose of providing electricity at retail to its members only.

16 (L) "System peak load" means the maximum amount of electricity that was  
17 delivered to all customers or members of all electric providers at any one time during  
18 the period from May 1, 1996, to September 15, 1996.

19 (m) "System peak load share" means the amount of electricity that was  
20 delivered to all customers or members of an electric provider by the electric provider  
21 at the time that the system peak load was delivered to all customers or members of  
22 all electric providers.

23 (2) RENEWABLE RESOURCE CAPACITY. (a) The renewable resource capacity of an  
24 electric provider, as calculated under par. (b), shall be at least the following  
25 percentages of the electric provider's system peak load share:

*can't count what you sell at wholesale*

- 1           1. By December 31, 2000, 1%.
- 2           2. By December 31, 2002, 1.5%.
- 3           3. By December 31, 2004, 2%.
- 4           4. By December 31, 2006, 2.5%.
- 5           5. By December 31, 2008, 3%.
- 6           6. By December 31, 2010, 4%.

*what  
part*

7           (b) In calculating an electric provider's renewable resource capacity under par.  
8 (a), each of the following applies:

9           1. Any capacity ~~that is~~ capable of being generated from hydroelectric power,  
10 that was placed in service before January 1, 1998, and that is more than 1% of the  
11 electric provider's system peak load share may not be counted as part of the  
12 provider's renewable resource capacity. *↳ by statute in digester, not e*

13           1g. An electric provider may not count as part of the provider's renewable  
14 resource capacity any renewable resource capacity that is required, as determined  
15 by the commission, under the law of another state.

16           1r. An electric provider may count as part of the provider's renewable resource  
17 capacity only capacity that is installed and is measured on the basis of periodic  
18 testing.

19           2. The amount of any renewable resource credit purchased by the electric  
20 provider under sub. (3) may be counted as part of the provider's renewable resource  
21 capacity.

22           3. For a municipal utility or retail electric cooperative, any renewable resource  
23 capacity that the municipal utility or retail electric cooperative purchases at  
24 wholesale may be counted as part of the provider's renewable resource capacity.



11-0 - renewable BTU  
renewable BTUs + everything else (renewable)

1           4. The capacity of any facility in which biomass and conventional resource fuels  
2 are fired together shall be determined by multiplying the capacity of the facility by  
3 the ratio of British thermal units that are capable of being generated by the biomass  
4 fuels to the British thermal units that are capable of being generated by the  
5 conventional resource fuels.

6           (3) RENEWABLE RESOURCE CREDITS. An electric provider that has a renewable  
7 resource capacity that is more than the percentage of the electric provider's system  
8 peak load share specified in sub. (2) (a) 1. to 6. for the applicable year may sell to any  
9 other electric provider a renewable resource credit or a portion of a renewable  
10 resource credit. The commission may promulgate rules that establish requirements  
11 and procedures for a sale under this subsection.

12           (4) RULES. (a) The commission may promulgate rules that designate a  
13 resource, except for a conventional resource, as a renewable resource in addition to  
14 the resources specified in sub. (1) (g) 1.

15           (b) The commission shall promulgate rules that establish a system for  
16 arranging transactions between electric providers and sellers of renewable resource  
17 capacity. The system shall include procedures that allow an electric provider to bid,  
18 on a statewide basis, for capacity that is capable of being generated from renewable  
19 resources. The commission may not require an electric provider to participate in the  
20 system established under rules promulgated under this paragraph.

21           (5) PENALTY. Any person who violates sub. (2) (a) shall forfeit no less than  
22 \$10,000 nor more than \$500,000. Forfeitures under this subsection shall be enforced  
23 by action on behalf of the state by the attorney general. A court imposing a forfeiture  
24 under this subsection shall consider all of the following in determining the amount  
25 of the forfeiture:

1 (a) The appropriateness of the forfeiture to the volume of business of the electric  
2 provider.

3 (b) The gravity of the violation.

4 (6) RECOMMENDATION TO LEGISLATURE. The commission may not recommend the  
5 repeal of this section to the legislature unless the commission finds, after a hearing,  
6 any of the following:

7 (a) That the market for renewable resources is competitive with the market for  
8 conventional resources.

9 (b) That the repeal of this section is in the public interest.

10 **SECTION 13.** 196.96 of the statutes is created to read:

11 **196.96 Utility public benefits.** (1) DEFINITIONS. In this section:

12 (a) “Board” means the utility public benefits board created in s. 15.792 (1) (b).

13 (b) “Capacity” has the meaning given in s. 196.378 (1) (b).

14 (c) “Community assistance program” means a program to provide assistance  
15 to, or to promote the welfare of, a community that includes the customers or members  
16 of a municipal utility or retail electric cooperative.

17 (cm) “Commitment to community program” means a program by a municipal  
18 utility or retail electric cooperative for low-income assistance or a community  
19 assistance, energy conservation or load management program by a municipal utility  
20 or retail electric cooperative.

21 (cs) “Customer application of renewable resources” means the generation of  
22 electricity from renewable resources that takes place on the premises of a customer  
23 of an electric provider.

24 (d) “Division of housing” means the division of housing in the department of  
25 administration.

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(e) "Electric provider" means an electric utility, retail electric cooperative or wholesale electric cooperative. *if possible make correct w/ 196.378*

(f) "Electric utility" means a public utility that generates, transmits, delivers or furnishes electricity.

(g) "Energy conservation program" means a program for reducing the demand for electricity during any period.

(h) "Fiscal year" has the meaning given in s. 655.001 (6).

(i) "Load management program" means a program that allows an electric provider to control electric usage by customers and reduce demand for electricity.

(j) "Local unit of government" means the governing body of any county, city, town, village or county utility district or the elected tribal governing body of a federally recognized American Indian tribe or band.

(k) "Low-income assistance" means assistance to low-income households for weatherization and other energy conservation services or payment of energy bills.

(L) "Low-income household" means any individual or group of individuals in this state who are living together as one economic unit and for whom residential electricity is customarily purchased in common or who make undesignated payments for electricity in the form of rent, and whose household income is not more than 150% of the poverty line as determined under 42 USC 9902 (2).

(m) "Low-income need" means the amount obtained by subtracting from the total low-income energy bills in a fiscal year the product of 2.2% of the average annual income of low-income households in this state in that fiscal year multiplied by the number of low-income households in this state in that fiscal year.

(n) "Low-income need percentage" means the percentage that results from dividing \$105,000,000 by the amount of low-income need in fiscal year 1998-99.

1 (o) “Low-income need target” means the product of the low-income need  
2 percentage multiplied by low-income need in a fiscal year.

3 (p) “Municipal utility” means an electric utility that is owned or operated  
4 wholly by a municipality.

5 (q) “Renewable resource” has the meaning given in s. 196.378 (1) (g).

6 (r) “Retail electric cooperative” means a cooperative association organized  
7 under ch. 185 for the purpose of providing electricity at retail to its members only.

8 (s) “Total low-income energy bills” means the total amount that all low-income  
9 households are billed for residential electricity, natural gas or heating fuel in a fiscal  
10 year.

11 (t) “Wholesale electric cooperative” means a cooperative association organized  
12 under ch. 185 for the purpose of providing electricity at wholesale to its members  
13 only.

14 (tm) “Wholesale electric percentage of capacity” means the percentage of a  
15 municipal utility’s or retail electric cooperative’s capacity in a fiscal year that is  
16 supplied by a wholesale supplier.

17 (u) “Wholesale supplier” means a wholesale supplier of electricity, including a  
18 wholesale electric cooperative, to a municipal utility or retail electric cooperative.

19 (2) BOARD DUTIES. The board shall do all of the following:

20 (a) After holding a hearing, establish programs to be administered by the  
21 department of administration through the division of housing for awarding grants  
22 from the appropriation under s. 20.155 (1m) (r) to provide low-income assistance.  
23 In each fiscal year, no less than the amount obtained by subtracting from  
24 \$50,000,000 the sum of all moneys received under 42 USC 6861 to 6873 in a fiscal

1 year shall be awarded under this paragraph in grants for weatherization and other  
2 energy conservation services.

3 (b) Subject to par. (d), after holding a hearing, establish programs for awarding  
4 grants from the appropriation under s. 20.155 (1m) (r) for each of the following:

5 1. Proposals for providing energy conservation or efficiency services. In  
6 awarding grants under this subdivision, the board shall give priority to proposals  
7 directed at the sectors of energy conservation or efficiency markets that are least  
8 competitive and at promoting environmental protection, electric system reliability  
9 or rural economic development. In each fiscal year, 1.75% of the amount obtained  
10 by subtracting from the appropriation under s. 20.155 (1m) (r) the amount awarded  
11 under par. (a) shall be awarded in grants for research and development proposals  
12 regarding the environmental impacts of the electric industry.

13 2. Proposals for encouraging the development or use of customer applications  
14 of renewable resources, including educating customers about renewable resources  
15 or encouraging uses of renewable resources by customers or encouraging research  
16 technology transfers. In each fiscal year, the board shall ensure that 4.5% of the  
17 amount obtained by subtracting from the appropriation under s. 20.155 (1m) (r) the  
18 amount awarded under par. (a) shall be awarded in grants under this subdivision.

19 (bm) The board may award grants under par. (b) only for proposals that are  
20 consistent with strategic energy assessments prepared by the commission under s.  
21 196.491 (2).

22 (c) For each fiscal year after 1998-99, determine the low-income need target  
23 for that fiscal year.

24 (d) For each fiscal year after 2002-03, determine whether to continue,  
25 discontinue or reduce any of the programs established under par. (b) and determine

1 the total amount necessary to fund the programs that the board determines to  
2 continue or reduce under this paragraph. An amount determined under this  
3 paragraph may not exceed \$112,000,000.

4 (e) Promulgate rules establishing all of the following:

5 1. Eligibility requirements for low-income assistance under programs  
6 established under par. (a). The rules shall prohibit a person who receives  
7 low-income assistance from a municipal utility or retail electric cooperative under  
8 a program specified in sub. (5) (d) 2. b. or 3. a. from receiving low-income assistance  
9 under programs established under par. (a).

10 2. Requirements and procedures for applications for grants awarded under  
11 programs established under par. (a) or (b).

12 2m. Criteria for the selection of proposals by the corporation specified in sub.  
13 (3) (b).

14 3. Requirements and procedures that allow an interested person, including a  
15 member of the public, to intervene in a hearing under par. (a) or (b) (intro.) and allow  
16 the board to award compensation from the appropriation under s. 20.155 (1m) (s) to  
17 a person that is not an electric provider for some or all of the reasonable costs of  
18 intervening in a hearing if the board finds any of the following:

19 a. That the intervention is necessary to provide an adequate presentation of a  
20 significant position in which the person has a substantial interest and that an  
21 adequate presentation would not be possible without compensation.

22 b. That the intervention has provided a significant contribution to the  
23 establishment of a program and has caused a significant financial hardship to the  
24 person.

1 (f) Encourage customers to make voluntary contributions to assist in funding  
2 the programs established under pars. (a) and (b). The board shall deposit all  
3 contributions received under this paragraph in the utility public benefits fund.

4 (g) Promulgate rules that require electric utilities to allow customers to include  
5 voluntary contributions to assist in funding a commitment to community program  
6 or a program established under par. (a) or (b) with bill payments for electric service.  
7 The rules may require an electric utility to provide a space on an electric bill in which  
8 a customer may indicate the amount of a voluntary contribution and the customer's  
9 preference regarding whether a contribution should be used for a program  
10 established under par. (a) or (b) 1. or 2. The rules shall establish requirements and  
11 procedures for electric utilities to pay to the board any voluntary contributions  
12 included with bill payments and to report to the board customer preferences  
13 regarding use of the contributions. The board shall deposit all contributions received  
14 under this paragraph in the utility public benefits fund.

15 (h) Deposit all moneys received under sub. (4) (a) or (5) (c) or (d) in the utility  
16 public benefits fund.

17 **(3) CONTRACTS.** (a) The division of housing shall, on the basis of competitive  
18 bids, contract with a community action agency described in s. 46.30 (2) (a) 1., a  
19 nonstock, nonprofit corporation organized under ch. 181 or a local unit of government  
20 to administer a program established under sub. (2) (a).

21 (b) The board shall, on the basis of competitive bids, contract with a nonstock,  
22 nonprofit corporation organized under ch. 181 to administer the programs  
23 established under sub. (2) (b), including soliciting proposals, processing grant  
24 applications, selecting, based on criteria specified in rules promulgated under sub.

1 (2) (e) 2m., proposals for the board to make awards and distributing grants to  
2 recipients.

3 (4) ELECTRIC UTILITIES. (a) *Requirement to charge access fees.* Each electric  
4 utility, except for a municipal utility, shall charge each customer an access fee in an  
5 amount established in rules promulgated by the board under par. (b). An electric  
6 utility, except for a municipal utility, shall collect and pay the fees to the board in  
7 accordance with the rules promulgated under par. (b).

8 (b) *Rules.* The board shall promulgate rules that establish the amount of an  
9 access fee that an electric utility shall charge a customer under par. (a) and  
10 requirements and procedures for an electric utility to collect and pay the fees to the  
11 board. Rules promulgated under this paragraph may allow an electric utility to  
12 charge different fees to different classes of customers, but no class of customers may  
13 be required to pay, in the aggregate, a disproportionate amount in comparison to any  
14 other class of customers. The rules shall prohibit an electric utility from itemizing  
15 an access fee on a customer's bill unless all other nonfuel costs are also itemized on  
16 the bill.

17 (c) *Amount of access fees.* A fee established in rules promulgated under par. (b)  
18 shall satisfy each of the following:

19 1. In fiscal year 1999–2000, a portion of the fee shall be an amount that is  
20 sufficient for the board to receive in access fees the amount obtained by subtracting  
21 from \$105,000,000 the sum of all moneys received under 42 USC 6861 to 6873 and  
22 42 USC 8621 to 8629 for that fiscal year and 50% of the access fees charged by  
23 municipal utilities and retail electric cooperatives under sub. (5) (a) for that fiscal  
24 year. In each fiscal year after fiscal year 1999–2000, the portion of the fee specified  
25 in this subdivision shall be an amount that is sufficient for the board to receive from



1 all electric utilities the amount obtained by subtracting from the amount of the  
2 low-income need target determined by the board for that fiscal year under sub. (2)  
3 (c) the sum of all moneys received under 42 USC 6861 to 6873 and 42 USC 8621 to  
4 8629 for that fiscal year and 50% of the access fees charged by municipal utilities and  
5 retail electric cooperatives under sub. (5) (a) for that fiscal year.

6 2. For fiscal year 1999–2000, a portion of the access fee shall be in an amount  
7 that is sufficient for the board to receive in access fees the amount obtained by  
8 subtracting from \$28,000,000 20% of the access fees charged by municipal utilities  
9 and retail electric cooperatives under sub. (5) (a) for that fiscal year. For fiscal year  
10 2000–01, a portion of the access fee shall be in an amount that is sufficient for the  
11 board to receive in access fees the amount obtained by subtracting from \$56,000,000  
12 20% of the access fees charged by municipal utilities and retail electric cooperatives  
13 under sub. (5) (a) for that fiscal year. For fiscal year 2001–02, a portion of the access  
14 fee shall be in an amount that is sufficient for the board to receive in access fees the  
15 amount obtained by subtracting from \$84,000,000 20% of the access fees charged by  
16 municipal utilities and retail electric cooperatives under sub. (5) (a) for that fiscal  
17 year. For fiscal year 2002–03, a portion of the access fee shall be in an amount that  
18 is sufficient for the board to receive in access fees the amount obtained by subtracting  
19 from \$112,000,000 20% of the access fees charged by municipal utilities and retail  
20 electric cooperatives under sub. (5) (a) for that fiscal year. For each fiscal year after  
21 2002–03, if the board determines under sub. (2) (d) to discontinue or reduce a  
22 program established under sub. (2) (b), the portion of the fee specified in this  
23 subdivision shall be an amount that is sufficient for the board to receive from all  
24 electric utilities the amount obtained by subtracting from the amount of funding  
25 determined by the board under sub. (2) (d) 20% of the access fees charged by

1 municipal utilities and retail electric cooperatives under sub. (5) (a) for that fiscal  
2 year.

3 3. For the period beginning on the effective date of this subdivision .... [revisor  
4 inserts date], and ending on June 30, 2008, the total increase in a customer's electric  
5 bills that is based on the requirement to pay access fees, may not exceed 3% of the  
6 total of every other charge for which the customer is billed for that period.

7 (5) MUNICIPAL UTILITIES AND RETAIL ELECTRIC COOPERATIVES. (a) *Requirement to*  
8 *charge access fees.* Each retail electric cooperative and municipal utility shall charge  
9 a monthly access fee to each customer or member in amount that is sufficient for the  
10 retail electric cooperative or municipal utility to collect an annual average of \$13.16  
11 per meter. A retail electric cooperative or municipal utility may determine the  
12 amount that a particular class of customers or members is required to pay under this  
13 paragraph and may charge different fees to different classes of customers or  
14 members.

15 (am) *Access fee restriction.* Notwithstanding par. (a), for the period beginning  
16 on the effective date of this paragraph .... [revisor inserts date], and ending on June  
17 30, 2008, the total increase in a customer's or member's electric bills that is based  
18 on the requirement to pay access fees may not exceed 3% of the total of every other  
19 charge for which the member or customer is billed for that period.

20 (b) *Election to contribute to board programs.* 1. No later than the first day of  
21 the 12th month beginning after the effective date of this subdivision .... [revisor  
22 inserts date], each municipal utility or retail electric cooperative shall notify the  
23 board whether it has elected to contribute to the programs established under sub. (2)  
24 (a) or (b) for a 3-year period.

1           2. No later than every 3rd year after the date specified in subd. 1., each  
2           municipal utility or retail electric cooperative shall notify the board whether it has  
3           elected to contribute to the programs established under sub. (2) (a) or (b) for a 3-year  
4           period.

5           (c) *Full contribution.* If a municipal utility or retail electric cooperative elects  
6           under par. (b) 1. or 2. to contribute to the programs established both under sub. (2)  
7           (a) and under sub. (2) (b), it shall pay, except as provided in par. (dm), 100% of the  
8           access fees that it charges under par. (a) to the board in each fiscal year of the 3-year  
9           period for which it has made the election.

10           (d) *Partial contributions.* A municipal utility or retail electric cooperative not  
11           specified in par. (c) shall do one of the following:

12           1. If the municipal utility or retail electric cooperative elects to contribute only  
13           to the programs established under sub. (2) (a), the municipal utility or retail electric  
14           cooperative shall, in each fiscal year of the 3-year period for which it elects to  
15           contribute under par. (b) 1. or 2., do all of the following:

16           a. Except as provided in par. (dm), pay no less than 50% of the access fees that  
17           it charges under par. (a) to the board.

18           b. Spend no less than 20% of the access fees that it charges under par. (a) on  
19           energy conservation programs. No more than 10% of the amount that a municipal  
20           utility or retail electric cooperative spends on energy conservation programs under  
21           this subd. 1. b. may be spent on load management programs.

22           c. Spend any remaining amounts on community assistance or load  
23           management programs.

24           2. If the municipal utility or retail electric cooperative elects to contribute only  
25           to the programs established under sub. (2) (b), the municipal utility or retail electric

1 cooperative shall, in each fiscal year of the 3-year period for which it elects to  
2 contribute under par. (b) 1. or 2., do all of the following:

3 a. Except as provided in par. (dm), pay 20% of the access fees that it charges  
4 under par. (a) to the board.

5 b. Spend no less than 50% of the access fees that it charges under par. (a) on  
6 programs for low-income assistance.

7 c. Spend any remaining amounts on community assistance or load  
8 management programs.

9 3. If the municipal utility or retail electric cooperative elects not to contribute  
10 to any of the programs established under sub. (2) (a) or (b), the municipal utility or  
11 retail electric cooperative shall, in each fiscal year of the 3-year period for which it  
12 elects not to contribute under par. (b) 1. or 2., do all of the following:

13 a. Spend no less than 50% of the access fees that it charges under par. (a) on  
14 programs for low-income assistance.

15 b. Spend no less than 20% of the access fees that it charges under par. (a) on  
16 energy conservation programs. No more than 10% of the amount that a municipal  
17 utility or retail electric cooperative spends on energy conservation programs under  
18 this subd. 3. b. may be spent on load management programs.

19 c. Spend any remaining amounts on community assistance or load  
20 management programs.

21 (dm) *Wholesale supplier compensation.* A municipal utility or retail electric  
22 cooperative may use no more than 10% of the access fee that it charges under par.  
23 (a) to compensate a wholesale supplier for the difference between the market price  
24 of electricity that the wholesale supplier generates from renewable resources, as  
25 defined in s. 196.378 (1) (g), constructed after December 31, 1997, and the market

1 price of electricity generated from conventional resources, as defined in s. 196.378  
2 (1) (c). A municipal utility or retail electric cooperative may deduct from the access  
3 fees that it is required to pay to the board under par. (c) or (d) 1. a. or 2. a. the amount  
4 that it uses to compensate a wholesale supplier under this paragraph.

5 (e) *Wholesale supplier credit.* If a wholesale supplier that is a municipal electric  
6 company, as defined in s. 66.073 (3) (d), or is organized under ch. 185, has established  
7 a program for low-income assistance, community assistance or an energy  
8 conservation or load management program, a municipal utility or retail electric  
9 cooperative that is a customer of the wholesale supplier may do any of the following:

10 1. Include an amount equal to the product of the municipal utility's or retail  
11 electric cooperative's wholesale supply percentage and the amount that the  
12 wholesale supplier has spent on low-income assistance in a fiscal year in calculating  
13 the amount that the municipal utility or retail electric cooperative has spent on  
14 low-income assistance in that fiscal year under par. (d) 2. b. or 3. a.

15 2. Include an amount equal to the product of the municipal utility's or retail  
16 electric cooperative's wholesale supply percentage and the amount that the  
17 wholesale supplier has spent on energy conservation programs or customer  
18 applications of renewable resources in a fiscal year in calculating the amount that  
19 the municipal utility or retail electric cooperative has spent on energy conservation  
20 programs under par. (d) 1. b. or 3. b.

21 (f) *Joint programs.* Municipal utilities or retail electric cooperatives may  
22 establish joint commitment to community programs, except that each municipal  
23 utility or retail electric cooperative that participates in a joint program is required  
24 to comply with the spending requirements under par. (d).

1           (g) *Reports.* 1. For each fiscal year, each municipal utility and retail electric  
2 cooperative that does not pay 100% of the access fee that it charges under par. (a) to  
3 the board under par. (c) shall file a report with the secretary of state that describes  
4 each of the following:

5           a. An accounting of access fees charged to customers or members under par. (a)  
6 in the fiscal year and expenditures on commitment to community programs under  
7 par. (d), including any amounts included in the municipal utility's or retail electric  
8 cooperative's calculations under par. (e).

9           b. A description of commitment to community programs established by the  
10 municipal utility or retail electric cooperative in the fiscal year.

11           2. The secretary of state shall maintain reports filed under subd. 1. for at least  
12 6 years.

13           **SECTION 14. Nonstatutory provisions.**

14           (1) INITIAL APPOINTMENTS TO UTILITY PUBLIC BENEFITS BOARD. Notwithstanding  
15 section 15.792 (1) (b) (intro.) of the statutes, as created by this act, the following  
16 initial members of the utility public benefits board shall be appointed by the first day  
17 of the 3rd month beginning after the effective date of this paragraph for the following  
18 terms:

19           (a) The members specified in section 15.792 (1) (b) 3., 4. and 9. of the statutes,  
20 as created by this act, for terms expiring on July 1, 2000.

21           (b) The members specified in section 15.792 (1) (b) 1., 2., 8. and 10. of the  
22 statutes, as created by this act, for terms expiring on July 1, 2001.

23           (c) The members specified in section 15.792 (1) (b) 6., 7. and 11. of the statutes,  
24 as created by this act, for terms expiring on July 1, 2002.

25

(END)

*D-NOTE*

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**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

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1 **AN ACT to amend** 196.374 (1) and 196.374 (2); and **to create** 15.07 (1) (a) 7., 15.07  
2 (1) (d), 15.792, 20.155 (1m), 25.17 (1) (xm), 25.96, 196.374 (1g) (a), (b) and (c),  
3 196.374 (4), 196.378 and 196.96 of the statutes; **relating to:** establishing  
4 programs for low-income energy assistance, improving energy conservation  
5 and efficiency markets and encouraging the development and use of renewable  
6 resources, creating a utility public benefits board, establishing a utility public  
7 benefits fund, requiring electric utilities and retail electric cooperatives to  
8 charge access fees to customers and members, imposing requirements on the  
9 use of renewable resources by electric utilities and cooperatives, requiring the  
10 exercise of rule-making authority, making appropriations and providing a  
11 penalty.

***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be prepared for a subsequent version.

For further information see the *state and local* 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.** 15.07 (1) (a) 7. of the statutes is created to read:

2           15.07 (1) (a) 7. Members of the utility public benefits board appointed under  
3 s. 15.792 (1) (b) or (c) shall be appointed as provided in s. 15.792 (1) (b) or (c) without  
4 senate confirmation.

5           **SECTION 2.** 15.07 (1) (d) of the statutes is created to read:

6           15.07 (1) (d) Except as provided in s. 15.792 (1) (b) 5. or 8. or (c), no member  
7 appointed to the utility public benefits board may be an employe of a utility, as  
8 defined in s. 196.374 (1).

9           **SECTION 3.** 15.792 of the statutes is created to read:

10          **15.792 Same; attached board. (1) UTILITY PUBLIC BENEFITS BOARD.** (a) In this  
11 subsection:

12          1. "Electric utility" has the meaning given in s. 196.96 (1) <sup>g</sup>.

13          2. "Low-income household" has the meaning given in s. 196.96 (1) <sup>2m</sup>.

14          3. "Municipal utility" has the meaning given in s. 196.96 (1) <sup>g</sup>.

15          4. "Renewable resource" has the meaning given in s. 196.378 (1) (g).

16          5. "Retail electric cooperative" has the meaning given in s. 196.96 (1) <sup>t</sup>.

17          6. "Small business" has the meaning given in s. 16.75 (4) (c).

18          7. "Small business representative" means a director, manager, member, officer,  
19 owner or partner of a small business.



*department of administration*

1 (b) There is created a utility public benefits board that is attached to the ~~public~~  
2 ~~service commission~~ under s. 15.03. The board shall consist of the following members  
3 appointed for 3-year terms:

4 1. One member appointed by the governor who is a member of a low-income  
5 household or a group or organization that represents low-income households.

6 2. One member appointed by the president of the senate who is a residential  
7 electric utility customer or who represents a residential electric utility customer  
8 advocacy group.

9 3. One member appointed by the governor who is a small business  
10 representative or who represents a small business advocacy group.

11 4. One member appointed by the president of the senate who represents an  
12 environmental or renewable resource advocacy group.

13 5. One member appointed by the president of the senate who represents a  
14 municipal utility or retail electric cooperative or municipal utility or retail electric  
15 cooperative advocacy group.

16 6. One member appointed by the speaker of the assembly who is a member of  
17 a low-income household or a group or organization that represents low-income  
18 households.

19 7. One member appointed by the speaker of the assembly who represents an  
20 environmental or renewable resource advocacy group.

21 8. One member appointed by the speaker of the assembly who represents an  
22 electric utility or electric utility advocacy group.

23 9. One member appointed by the chairperson of the public service commission  
24 to represent the public service commission.

1           10. One member appointed by the secretary of natural resources to represent  
2 the department of natural resources.

3           11. One member appointed by the administrator of the division of housing in  
4 the department of administration to represent the division of housing.

5           (c) 1. a. Notwithstanding par. (b) (intro.) and 5., if fewer than one-third of the  
6 municipal utilities and retail electric cooperatives doing business in this state notify  
7 the board under s. 196.96 (5) (b) 1. that they have elected to contribute to any of the  
8 programs established under s. 196.96 (2) (a) or (b), the president of the senate shall  
9 appoint a representative of an electric utility or electric utility advocacy group to  
10 succeed the member appointed under par. (b) 5. and the member appointed under  
11 par. (b) 5. shall vacate his or her membership at the time that the member is  
12 appointed under this subd. 1. a. A member appointed under this subd. 1. a. shall  
13 serve on the board until a member is appointed under subd. 2.

14           b. If one-third or more of the municipal utilities and retail electric cooperatives  
15 doing business in this state notify the board under s. 196.96 (5) (b) 1. that they have  
16 elected to contribute to any of the programs established under s. 196.96 (2) (a) or (b),  
17 the member appointed under par. (b) 5. shall serve for a term expiring on the first  
18 day of the 48th month beginning after the effective date of this subd. 1. b. .... [revisor  
19 inserts date].

20           2. a. If one-third or more of the municipal utilities and retail electric  
21 cooperatives doing business in this state notify the board under s. 196.96 (5) (b) 2.  
22 that they have elected to contribute to any of the programs established under s.  
23 196.96 (2) (a) or (b), the president of the senate shall appoint one member to the board  
24 who is a representative of a municipal utility or retail electric cooperative or  
25 municipal utility or retail electric cooperative advocacy group for a 3-year term.

INSERT 5-8 ✓

1 b. Notwithstanding par. (b) (intro.) or 5., if fewer than one-third of the  
2 municipal utilities and retail electric cooperatives doing business in this state notify  
3 the board under s. 196.96 (5) (b) 2. that they have elected to contribute to any of the  
4 programs established under s. 196.96 (2) (a) or (b), the president of the senate shall  
5 appoint a member to the board who is a representative of an electric utility or electric  
6 utility advocacy group for a 3-year term.

7 SECTION 4. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
8 the following amounts for the purposes indicated:

	1999-00	2000-01
<b>20.155 Public service commission</b>		
(1m) UTILITY PUBLIC BENEFITS BOARD		
(s) Compensation of intervenors	500,000	500,000

13 SECTION 5. 20.155 (1m) of the statutes is created to read:  
14 20.155 (1m) UTILITY PUBLIC BENEFITS BOARD. (q) *General program operations.*  
15 From the utility public benefits fund, a sum sufficient for general program operations  
16 of the utility public benefits board

17 (r) *Grants.* From the utility public benefits fund, a sum sufficient for  
18 low-income assistance grants under s. 196.96 (2) (a) and energy conservation and  
19 efficiency and renewable resource grants under s. 196.96 (2) (b).

20 (s) *Compensation of intervenors.* From the utility public benefits fund, the  
21 amounts in the schedule for compensating persons who intervene in hearings under  
22 the rules promulgated under s. 196.96 (2) (e) 3.

23 SECTION 6. 25.17 (1) (xm) of the statutes is created to read:

24 25.17 (1) (xm) Utility public benefits fund (s. 25.96);

*municipal electric company,  
as defined in s. 66.073*

*(3)(d) a*

1 SECTION 7. 25.96 of the statutes is created to read:

2 **25.96 Utility public benefits fund.** There is established a separate  
3 nonlapsible trust fund designated as the utility public benefits fund, consisting of the  
4 access fees received under s. 196.96 (4) (a) and (5) (c) and (d) and contributions  
5 received under s. 196.96 (2) (f) and (g).

6 SECTION 8. 196.374 (1) of the statutes is amended to read:

7 196.374 (1) In this section "utility" means a class A gas or electric utility, as  
8 defined by the commission, but does not include a *municipal utility*, as defined in s.  
9 *196.96 (1) (a)*, or a cooperative association organized under ch. 185.

10 (1g) Every utility shall spend annually at least 0.5% each of the following  
11 percentages of its total annual operating revenues in each of the following fiscal  
12 years on programs designed to promote and accomplish energy conservation:

13 (1r) The commission may require a utility to spend annually for the purpose  
14 of promoting and accomplishing energy conservation, an amount which is more or  
15 less than 0.5% the percentage of its annual operating revenues specified in sub. (1g)  
16 if, after notice and hearing, the commission finds that the expenditure of such  
17 amount is in the public interest.

18 SECTION 9. 196.374 (1g) (a), (b) and (c) of the statutes are created to read:

19 196.374 (1g) (a) In fiscal year 1999–2000, 0.375%.

20 (b) In fiscal year 2000–01, 0.25%.

21 (c) In fiscal year 2001–02, 0.125%.

22 SECTION 10. 196.374 (2) of the statutes is amended to read:

23 196.374 (2) The commission may prescribe all or part of any program to be  
24 funded under sub. (1) (1g). The commission may require that a utility establish a  
25 program funded under sub. (1) (1g) which is applicable only to a group of consumers

1 specified by the commission because the group has special energy conservation  
2 needs. Such a group may include, but is not limited to, low-income utility  
3 consumers, under guidelines established by the commission.

4 SECTION 11. 196.374 (4) of the statutes is created to read:

5 196.374 (4) This section does not apply after June 30, 2002.

6 SECTION 12. 196.378 of the statutes is created to read:

7 196.378 Renewable resources. (1) DEFINITIONS. In this section:

8 (a) "Biomass" means a resource that ~~generates~~<sup>derives</sup> energy from wood or plant  
9 material or residue, biological waste, crops grown for use as a resource or landfill  
10 gases. "Biomass" does not include garbage, as defined in s. 289.01 (9), or industrial,  
11 commercial or household waste.

12 (b) "Capacity" means the maximum amount of electricity that an electric  
13 provider is capable of generating as measured on the basis of manufacturer's ratings  
14 or periodic testing.

15 (c) "Conventional resource" means a resource that ~~generates~~<sup>derives</sup> energy from coal,  
16 oil, nuclear power or natural gas, except for natural gas used in a fuel cell.

17 (d) "Electric provider" means an electric utility or retail electric cooperative.

18 (e) "Electric utility" means a public utility that generates, transmits, delivers  
19 or furnishes electricity. (INSERT 7-19) ✓

20 (f) "Municipal utility" means an electric utility that is owned or operated wholly  
21 by a municipality.

22 (g) "Renewable resource" means any of the following:

- 23 1. A resource that ~~generates~~<sup>derives</sup> energy from any of the following:
  - 24 a. A fuel cell that uses, as determined by the commission, a renewable fuel.
  - 25 b. Tidal or wave action.

INSERT 720 ✓

INSERT 8-22 ✓

1 c. Solar thermal electric or photovoltaic energy.

2 d. Wind power. ✓

3 e. Geothermal technology.

4 f. Hydroelectric power.

5 g. Biomass.

6 2. Any other resource, except a conventional resource, that the commission  
7 designates as a renewable resource in rules promulgated under sub. (4) (a).

8 (i) "Renewable resource credit" means ~~an amount~~ by which an electric  
9 provider's renewable resource capacity exceeds a percentage of the electric provider's  
10 system peak load share specified in sub. (2) (a) 1. to 6.

11 (j) "Renewable resource capacity" means the capacity of an electric provider  
12 that is capable of being generated from renewable resources.

13 (k) "Resource" means a source of electric power generation.

14 (l) "Retail electric cooperative" means a cooperative association organized  
15 under ch. 185 for the purpose of providing electricity at retail to its members only.

16 (m) "~~State~~ <sup>State</sup> peak load" means the maximum amount of electricity that was  
17 delivered to all customers or members of all electric providers <sup>in this state</sup> at any one time during  
18 the period from May 1, 1996, to September 15, 1996.

19 (n) "~~State~~ <sup>State</sup> peak load share" means the amount of electricity that was  
20 delivered to all customers or members of an electric provider by the electric provider  
21 at the time that the ~~state~~ <sup>state</sup> peak load was delivered to all customers or members of  
22 all electric providers <sup>in this state</sup> ✓

23 (2) RENEWABLE RESOURCE CAPACITY. (a) The renewable resource capacity ~~of an~~  
24 electric provider, as calculated under par. (b), shall be at least the following  
25 percentages of the electric provider's ~~state~~ <sup>state</sup> peak load share:

INSERT 8-7 ✓

INSERT 8-8 ✓

INSERT 8-23 ✓

INSERT 8-24 ✓

INSERT 9-8 ✓

- 1 1. By December 31, 2000, 1%.
- 2 2. By December 31, 2002, 1.5%.
- 3 3. By December 31, 2004, 2%.
- 4 4. By December 31, 2006, 2.5%.
- 5 5. By December 31, 2008, 3%.
- 6 6. By December 31, 2010, 4%.

shall be calculated in accordance with

7 (b) ~~Calculating~~ <sup>total</sup> an electric provider's renewable resource capacity ~~shall be~~  
 8 ~~each of the following~~ <sup>total</sup> ~~shall be~~

9 1. Any capacity that is capable of being generated from hydroelectric power,  
 10 that was placed in service before January 1, 1998, and that is more than 1% of the  
 11 electric provider's system peak load share may not be counted as part of the  
 12 provider's renewable resource capacity.

13 1g. An electric provider may not count as part of the provider's renewable  
 14 resource capacity any renewable resource capacity that is required, as determined  
 15 by the commission, under the law of another state.

16 1r. An electric provider may count as part of the provider's renewable resource  
 17 capacity only capacity that is installed and is measured on the basis of periodic  
 18 testing.

19 2. The amount of any renewable resource credit purchased by the electric  
 20 provider under sub. (3) may be counted as part of the provider's renewable resource  
 21 capacity.

22 3. For a municipal utility or retail electric cooperative, any renewable resource  
 23 capacity that the municipal utility or retail electric cooperative purchases at  
 24 wholesale may be counted as part of the provider's renewable resource capacity.

1 4. The capacity of any facility in which biomass and conventional resource fuels  
 2 are fired together shall be determined by multiplying the capacity of the facility by  
 3 the ratio of British thermal units that are capable of being generated by the biomass  
 4 fuels to the British thermal units that are capable of being generated by the  
 5 conventional resource fuels.

6 (3) RENEWABLE RESOURCE CREDITS. An electric provider that has a <sup>total</sup> renewable  
 7 ~~renewable~~ capacity that is more than the percentage of the electric provider's ~~system~~ <sup>state</sup>  
 8 peak load share specified in sub. (2) (a) 1. to 6. for the applicable year may sell to any  
 9 other electric provider a renewable resource credit or a portion of a renewable  
 10 resource credit. ~~The commission may promulgate rules that establish requirements~~  
 11 and procedures for a sale under ~~the rules of sub. (2) (a) 1. to 6.~~ <sup>par. (a)</sup>, <sup>statewide bidding</sup>

12 (4) RULES. (a) The commission may promulgate rules that designate a  
 13 resource, except for a conventional resource, as a renewable resource in addition to  
 14 the resources specified in sub. (1) (g) 1. <sup>trans system</sup>

15 (b) The commission shall promulgate rules that establish a system for  
 16 arranging transactions between electric providers and sellers of ~~renewable~~ <sup>trans system</sup>  
 17 capacity. ~~The system shall include procedures that allow an electric provider to bid,~~  
 18 ~~on a statewide basis, for capacity that is capable of being generated from renewable~~  
 19 ~~resources.~~ The commission may not require an electric provider to participate in the  
 20 system established under rules promulgated under this paragraph.

21 (5) PENALTY. Any person who violates sub. (2) (a) shall forfeit no less than  
 22 \$10,000 nor more than \$500,000. Forfeitures under this subsection shall be enforced  
 23 by action on behalf of the state by the attorney general. A court imposing a forfeiture  
 24 under this subsection shall consider all of the following in determining the amount  
 25 of the forfeiture:

INSERT 10-14 ✓



1 (a) The appropriateness of the forfeiture to the volume of business of the electric  
2 provider.

3 (b) The gravity of the violation.

4 (6) RECOMMENDATION TO LEGISLATURE. The commission may not recommend the  
5 repeal of this section to the legislature unless the commission finds, after a hearing,  
6 any of the following:

7 (a) That the market for renewable resources is competitive with the market for  
8 conventional resources.

9 (b) That the repeal of this section is in the public interest.

10 SECTION 13. 196.96 of the statutes is created to read:

11 **196.96 Utility public benefits.** (1) DEFINITIONS. In this section:

12 (a) "Board" means the utility public benefits board created in s. 15.792 (1) (b).

13 ~~(b) "Capacity" has the meaning given in s. 196.378 (1) (b).~~

14 <sup>b</sup> (c) "Community assistance program" means a program to provide assistance  
15 to, or to promote the welfare of, a community that includes the customers or members  
16 of a municipal utility or retail electric cooperative.

17 <sup>(e)</sup> "Commitment to community program" means a program by a municipal  
18 utility or retail electric cooperative for low-income assistance or a community  
19 assistance, energy conservation or load management program by a municipal utility  
20 or retail electric cooperative.

21 <sup>(d)</sup> "Customer application of renewable resources" means the generation of  
22 electricity from renewable resources that takes place on the premises of a customer  
23 of an electric provider.

24 <sup>(e)</sup> "Division of housing" means the division of housing in the department of  
25 administration.

1 (e) "Electric provider" means an electric utility <sup>or</sup> retail electric cooperative

2 wholesale electric cooperative.

3 (f) "Electric utility" means a public utility that generates, transmits, delivers  
4 or furnishes electricity.

5 (g) "Energy conservation program" means a program for reducing the demand  
6 for electricity during any period.

7 (h) "Fiscal year" has the meaning given in s. 655.001 (6).

8 (i) "Load management program" means a program that allows an electric  
9 provider to control electric usage by customers and reduce demand for electricity.

10 (j) "Local unit of government" means the governing body of any county, city,  
11 town, village or county utility district or the elected tribal governing body of a  
12 federally recognized American Indian tribe or band.

13 (k) "Low-income assistance" means assistance to low-income households for  
14 weatherization and other energy conservation services or payment of energy bills.

15 (l) "Low-income household" means any individual or group of individuals in  
16 this state who are living together as one economic unit and for whom residential  
17 electricity is customarily purchased in common or who make undesignated  
18 payments for electricity in the form of rent, and whose household income is not more  
19 than 150% of the poverty line as determined under 42 USC 9902 (2).

20 (m) "Low-income need" means the amount obtained by subtracting from the  
21 total low-income energy bills in a fiscal year the product of 2.2% of the average  
22 annual income of low-income households in this state in that fiscal year multiplied  
23 by the number of low-income households in this state in that fiscal year.

24 (n) "Low-income need percentage" means the percentage that results from  
25 dividing \$105,000,000 by the amount of low-income need in fiscal year 1998-99.

INSERT 13-5

1 (b) "Low-income need target" means the product of the low-income need  
2 percentage multiplied by low-income need in a fiscal year.

3 (c) "Municipal utility" means an electric utility that is owned or operated  
4 wholly by a municipality.

5 (d) "Renewable resource" has the meaning given in s. 196.378 (1) (g).

6 (e) "Retail electric cooperative" means a cooperative association organized  
7 under ch. 185 for the purpose of providing electricity at retail to its members only.

8 (f) "Total low-income energy bills" means the total amount that all low-income  
9 households are billed for residential electricity, natural gas or heating fuel in a fiscal  
10 year.

11 (g) "Wholesale electric cooperative" means a cooperative association organized  
12 under ch. 185 for the purpose of providing electricity at wholesale to its members  
13 only.

14 (h) "Wholesale <sup>supply</sup> ~~electric~~ percentage ~~capacity~~ means the percentage of a  
15 municipal utility's or retail electric cooperative's capacity in a fiscal year that is  
16 supplied by a wholesale supplier.

retail

INSERT 13-18

17 (i) "Wholesale supplier" means a wholesale supplier of electricity, including a  
18 wholesale electric cooperative, to a municipal utility or retail electric cooperative.

19 (2) BOARD DUTIES. The board shall do all of the following:

20 (a) After holding a hearing, establish programs to be administered by the  
21 department of administration through the division of housing for awarding grants  
22 from the appropriation under s. 20.155 (1m) (r) to provide low-income assistance.  
23 In each fiscal year, no less than the amount obtained by subtracting from  
24 \$50,000,000 the sum of all moneys received under 42 USC 6861 to 6873 in a fiscal

1 year shall be awarded under this paragraph in grants for weatherization and other  
2 energy conservation services.

3 (b) Subject to par. (d), after holding a hearing, establish programs for awarding  
4 grants from the appropriation under s. 20.155 (1m) (r) for each of the following:

5 1. Proposals for providing energy conservation or efficiency services. In  
6 awarding grants under this subdivision, the board shall give priority to proposals  
7 directed at the sectors of energy conservation or efficiency markets that are least  
8 competitive and at promoting environmental protection, electric system reliability  
9 or rural economic development. In each fiscal year, 1.75% of the amount obtained  
10 by subtracting from the appropriation under s. 20.155 (1m) (r) the amount awarded  
11 under par. (a) shall be awarded in grants for research and development proposals  
12 regarding the environmental impacts of the electric industry.

13 2. Proposals for encouraging the development or use of customer applications  
14 of renewable resources, including educating customers about renewable resources  
15 or encouraging uses of renewable resources by customers or encouraging research  
16 technology transfers. In each fiscal year, the board shall ensure that 4.5% of the  
17 amount obtained by subtracting from the appropriation under s. 20.155 (1m) (r) the  
18 amount awarded under par. (a) shall be awarded in grants under this subdivision.

19 (bm) The board may award grants under par. (b) only for proposals that are  
20 consistent with strategic energy assessments prepared by the commission under s.  
21 196.491 (2).

22 (c) For each fiscal year after 1998–99, determine the low-income need target  
23 for that fiscal year.

24 (d) For each fiscal year after 2002–03, determine whether to continue,  
25 discontinue or reduce any of the programs established under par. (b) and determine

1 the total amount necessary to fund the programs that the board determines to  
2 continue or reduce under this paragraph. An amount determined under this  
3 paragraph may not exceed \$112,000,000.

4 (e) Promulgate rules establishing all of the following:

5 1. Eligibility requirements for low-income assistance under programs  
6 established under par. (a). The rules shall prohibit a person who receives  
7 low-income assistance from a municipal utility or retail electric cooperative under  
8 a program specified in sub. (5) (d) 2. b. or 3. a. from receiving low-income assistance  
9 under programs established under par. (a).

10 2. Requirements and procedures for applications for grants awarded under  
11 programs established under par. (a) or (b).

12 2m. Criteria for the selection of proposals by the corporation specified in sub.  
13 (3) (b).

14 3. Requirements and procedures that allow an interested person, including a  
15 member of the public, to intervene in a hearing under par. (a) or (b) (intro.) and allow  
16 the board to award compensation from the appropriation under s. 20.155 (1m) (s) to  
17 a person that is not an electric provider for some or all of the reasonable costs of  
18 intervening in a hearing if the board finds any of the following:

19 a. That the intervention is necessary to provide an adequate presentation of a  
20 significant position in which the person has a substantial interest and that an  
21 adequate presentation would not be possible without compensation.

22 b. That the intervention has provided a significant contribution to the  
23 establishment of a program and has caused a significant financial hardship to the  
24 person.

1           (f) Encourage customers to make voluntary contributions to assist in funding  
2 the programs established under pars. (a) and (b). The board shall deposit all  
3 contributions received under this paragraph in the utility public benefits fund.

4           (g) Promulgate rules that require electric utilities to allow customers to include  
5 voluntary contributions to assist in funding a commitment to community program  
6 or a program established under par. (a) or (b) with bill payments for electric service.  
7 The rules may require an electric utility to provide a space on an electric bill in which  
8 a customer may indicate the amount of a voluntary contribution and the customer's  
9 preference regarding whether a contribution should be used for a program  
10 established under par. (a) or (b) 1. or 2. The rules shall establish requirements and  
11 procedures for electric utilities to pay to the board any voluntary contributions  
12 included with bill payments and to report to the board customer preferences  
13 regarding use of the contributions. The board shall deposit all contributions received  
14 under this paragraph in the utility public benefits fund.

15           (h) Deposit all moneys received under sub. (4) (a) or (5) (c) or (d) in the utility  
16 public benefits fund.

17           **(3) CONTRACTS.** (a) The division of housing shall, on the basis of competitive  
18 bids, contract with a community action agency described in s. 46.30 (2) (a) 1., a  
19 nonstock, nonprofit corporation organized under ch. 181 or a local unit of government  
20 to administer a program established under sub. (2) (a).

21           (b) The board shall, on the basis of competitive bids, contract with a nonstock,  
22 nonprofit corporation organized under ch. 181 to administer the programs  
23 established under sub. (2) (b), including soliciting proposals, processing grant  
24 applications, selecting, based on criteria specified in rules promulgated under sub.

1 (2) (e) 2m., proposals for the board to make awards and distributing grants to  
2 recipients.

3 (4) ELECTRIC UTILITIES. (a) *Requirement to charge access fees.* Each electric  
4 utility, except for a municipal utility, shall charge each customer an access fee in an  
5 amount established in rules promulgated by the board under par. (b). An electric  
6 utility, except for a municipal utility, shall collect and pay the fees to the board in  
7 accordance with the rules promulgated under par. (b).

8 (b) *Rules.* The board shall promulgate rules that establish the amount of an  
9 access fee that an electric utility shall charge a customer under par. (a) and  
10 requirements and procedures for an electric utility to collect and pay the fees to the  
11 board. Rules promulgated under this paragraph may allow an electric utility to  
12 charge different fees to different classes of customers, but no class of customers may  
13 be required to pay, in the aggregate, a disproportionate amount in comparison to any  
14 other class of customers. The rules shall prohibit an electric utility from itemizing  
15 an access fee on a customer's bill unless all other nonfuel costs are also itemized on  
16 the bill.

17 (c) *Amount of access fees.* A fee established in rules promulgated under par. (b)  
18 shall satisfy each of the following:

19 1. In fiscal year 1999–2000, a portion of the fee shall be an amount that is  
20 sufficient for the board to receive in access fees the amount obtained by subtracting  
21 from \$105,000,000 the sum of all moneys received under 42 USC 6861 to 6873 and  
22 42 USC 8621 to 8629 for that fiscal year and 50% of the access fees charged by  
23 municipal utilities and retail electric cooperatives under sub. (5) (a) for that fiscal  
24 year. In each fiscal year after fiscal year 1999–2000, the portion of the fee specified  
25 in this subdivision shall be an amount that is sufficient for the board to receive from

1 all electric utilities the amount obtained by subtracting from the amount of the  
2 low-income need target determined by the board for that fiscal year under sub. (2)  
3 (c) the sum of all moneys received under 42 USC 6861 to 6873 and 42 USC 8621 to  
4 8629 for that fiscal year and 50% of the access fees charged by municipal utilities and  
5 retail electric cooperatives under sub. (5) (a) for that fiscal year.

6 2. For fiscal year 1999–2000, a portion of the access fee shall be in an amount  
7 that is sufficient for the board to receive in access fees the amount obtained by  
8 subtracting from \$28,000,000 20% of the access fees charged by municipal utilities  
9 and retail electric cooperatives under sub. (5) (a) for that fiscal year. For fiscal year  
10 2000–01, a portion of the access fee shall be in an amount that is sufficient for the  
11 board to receive in access fees the amount obtained by subtracting from \$56,000,000  
12 20% of the access fees charged by municipal utilities and retail electric cooperatives  
13 under sub. (5) (a) for that fiscal year. For fiscal year 2001–02, a portion of the access  
14 fee shall be in an amount that is sufficient for the board to receive in access fees the  
15 amount obtained by subtracting from \$84,000,000 20% of the access fees charged by  
16 municipal utilities and retail electric cooperatives under sub. (5) (a) for that fiscal  
17 year. For fiscal year 2002–03, a portion of the access fee shall be in an amount that  
18 is sufficient for the board to receive in access fees the amount obtained by subtracting  
19 from \$112,000,000 20% of the access fees charged by municipal utilities and retail  
20 electric cooperatives under sub. (5) (a) for that fiscal year. For each fiscal year after  
21 2002–03, if the board determines under sub. (2) (d) to discontinue or reduce a  
22 program established under sub. (2) (b), the portion of the fee specified in this  
23 subdivision shall be an amount that is sufficient for the board to receive from all  
24 electric utilities the amount obtained by subtracting from the amount of funding  
25 determined by the board under sub. (2) (d) 20% of the access fees charged by



1 municipal utilities and retail electric cooperatives under sub. (5) (a) for that fiscal  
2 year.

3 3. For the period beginning on the effective date of this subdivision .... [revisor  
4 inserts date], and ending on June 30, 2008, the total increase in a customer's electric  
5 bills that is based on the requirement to pay access fees, may not exceed 3% of the  
6 total of every other charge for which the customer is billed for that period.

7 (5) MUNICIPAL UTILITIES AND RETAIL ELECTRIC COOPERATIVES. (a) *Requirement to*  
8 *charge access fees.* Each retail electric cooperative and municipal utility shall charge  
9 a monthly access fee to each customer or member in amount that is sufficient for the  
10 retail electric cooperative or municipal utility to collect an annual average of \$13.16  
11 per meter. A retail electric cooperative or municipal utility may determine the  
12 amount that a particular class of customers or members is required to pay under this  
13 paragraph and may charge different fees to different classes of customers or  
14 members.

15 (am) *Access fee restriction.* Notwithstanding par. (a), for the period beginning  
16 on the effective date of this paragraph .... [revisor inserts date], and ending on June  
17 30, 2008, the total increase in a customer's or member's electric bills that is based  
18 on the requirement to pay access fees may not exceed 3% of the total of every other  
19 charge for which the member or customer is billed for that period.

20 (b) *Election to contribute to board programs.* 1. No later than the first day of  
21 the 12th month beginning after the effective date of this subdivision .... [revisor  
22 inserts date], each municipal utility or retail electric cooperative shall notify the  
23 board whether it has elected to contribute to the programs established under sub. (2)  
24 (a) or (b) for a 3-year period.

1           2. No later than every 3rd year after the date specified in subd. 1., each  
2 municipal utility or retail electric cooperative shall notify the board whether it has  
3 elected to contribute to the programs established under sub. (2) (a) or (b) for a 3-year  
4 period.

5           (c) *Full contribution.* If a municipal utility or retail electric cooperative elects  
6 under par. (b) 1. or 2. to contribute to the programs established both under sub. (2)  
7 (a) and under sub. (2) (b), it shall pay, except as provided in par. (dm), 100% of the  
8 access fees that it charges under par. (a) to the board in each fiscal year of the 3-year  
9 period for which it has made the election.

10           (d) *Partial contributions.* A municipal utility or retail electric cooperative not  
11 specified in par. (c) shall do one of the following:

12           1. If the municipal utility or retail electric cooperative elects to contribute only  
13 to the programs established under sub. (2) (a), the municipal utility or retail electric  
14 cooperative shall, in each fiscal year of the 3-year period for which it elects to  
15 contribute under par. (b) 1. or 2., do all of the following:

16           a. Except as provided in par. (dm), pay no less than 50% of the access fees that  
17 it charges under par. (a) to the board.

18           b. Spend no less than 20% of the access fees that it charges under par. (a) on  
19 energy conservation programs. No more than 10% of the amount that a municipal  
20 utility or retail electric cooperative spends on energy conservation programs under  
21 this subd. 1. b. may be spent on load management programs.

22           c. Spend any remaining amounts on community assistance or load  
23 management programs.

24           2. If the municipal utility or retail electric cooperative elects to contribute only  
25 to the programs established under sub. (2) (b), the municipal utility or retail electric

and  
commitment to community  
spending  
I

1 cooperative shall, in each fiscal year of the 3-year period for which it elects to  
2 contribute under par. (b) 1. or 2., do all of the following:

3 a. Except as provided in par. (dm), pay 20% of the access fees that it charges  
4 under par. (a) to the board.

5 b. Spend no less than 50% of the access fees that it charges under par. (a) on  
6 programs for low-income assistance.

7 c. Spend any remaining amounts on community assistance or load  
8 management programs.

9 3. If the municipal utility or retail electric cooperative elects not to contribute  
10 to any of the programs established under sub. (2) (a) or (b), the municipal utility or  
11 retail electric cooperative shall, in each fiscal year of the 3-year period for which it  
12 elects not to contribute under par. (b) 1. or 2., do all of the following:

13 a. Spend no less than 50% of the access fees that it charges under par. (a) on  
14 programs for low-income assistance.

15 b. Spend no less than 20% of the access fees that it charges under par. (a) on  
16 energy conservation programs. No more than 10% of the amount that a municipal  
17 utility or retail electric cooperative spends on energy conservation programs under  
18 this subd. 3. b. may be spent on load management programs.

19 c. Spend any remaining amounts on community assistance or load  
20 management programs.

21 (dm) *Wholesale supplier compensation.* A municipal utility or retail electric  
22 cooperative may use no more than 10% of the access fee that it charges under par.  
23 (a) to compensate a wholesale supplier for the difference between the market price  
24 of electricity that the wholesale supplier generates from renewable resources, as  
25 defined in s. 196.378 (1) (g), constructed after December 31, 1997, and the market

1 price of electricity generated from conventional resources, as defined in s. 196.378  
2 (1) <sup>b</sup> ~~(3)~~. A municipal utility or retail electric cooperative may deduct from the access  
3 fees that it is required to pay to the board under par. (c) or (d) 1. a. or 2. a. the amount  
4 that it uses to compensate a wholesale supplier under this paragraph.

5 (e) *Wholesale supplier credit.* If a wholesale supplier ~~that is a municipal electric~~  
6 ~~company, as defined in s. 66.073 (3) (d), or is organized under ch. 185,~~ has established  
7 a program for low-income assistance, community assistance or an energy  
8 conservation or load management program, a municipal utility or retail electric  
9 cooperative that is a customer of the wholesale supplier may do any of the following:

10 1. Include an amount equal to the product of the municipal utility's or retail  
11 electric cooperative's wholesale supply percentage and the amount that the  
12 wholesale supplier has spent on low-income assistance in a fiscal year in calculating  
13 the amount that the municipal utility or retail electric cooperative has spent on  
14 low-income assistance in that fiscal year under par. (d) 2. b. or 3. a.

15 2. Include an amount equal to the product of the municipal utility's or retail  
16 electric cooperative's wholesale supply percentage and the amount that the  
17 wholesale supplier has spent on energy conservation programs or customer  
18 applications of renewable resources in a fiscal year in calculating the amount that  
19 the municipal utility or retail electric cooperative has spent on energy conservation  
20 programs under par. (d) 1. b. or 3. b.

21 (f) *Joint programs.* Municipal utilities or retail electric cooperatives may  
22 establish joint commitment to community programs, except that each municipal  
23 utility or retail electric cooperative that participates in a joint program is required  
24 to comply with the spending requirements under par. (d).

1 (g) *Reports.* 1. For each fiscal year, each municipal utility and retail electric  
2 cooperative that does not pay 100% of the access fee that it charges under par. (a) to  
3 the board under par. (c) shall file a report with the secretary of state that describes  
4 each of the following:

5 a. An accounting of access fees charged to customers or members under par. (a)  
6 in the fiscal year and expenditures on commitment to community programs under  
7 par. (d), including any amounts included in the municipal utility's or retail electric  
8 cooperative's calculations under par. (e).

9 b. A description of commitment to community programs established by the  
10 municipal utility or retail electric cooperative in the fiscal year.

11 2. The secretary of state shall maintain reports filed under subd. 1. for at least  
12 6 years.

13 **SECTION 14. Nonstatutory provisions.**

14 (1) INITIAL APPOINTMENTS TO UTILITY PUBLIC BENEFITS BOARD. Notwithstanding  
15 section 15.792 (1) (b) (intro.) of the statutes, as created by this act, the following  
16 initial members of the utility public benefits board shall be appointed by the first day  
17 of the 3rd month beginning after the effective date of this paragraph for the following  
18 terms:

19 (a) The members specified in section 15.792 (1) (b) 3., 4. and 9. of the statutes,  
20 as created by this act, for terms expiring on July 1, 2000.

21 (b) The members specified in section 15.792 (1) (b) 1., 2., 8. and 10. of the  
22 statutes, as created by this act, for terms expiring on July 1, 2001.

23 (c) The members specified in section 15.792 (1) (b) 6., 7. and 11. of the statutes,  
24 as created by this act, for terms expiring on July 1, 2002.

25 (END)

Q-NOTE



1 is supplied under executed wholesale purchase contracts by renewable facilities that  
2 are not owned or operated by the electric provider. "Nonsystem renewable capacity"  
3 does not include any electricity that is not used to satisfy the electric provider's retail  
4 load obligations.

5 **INSERT 8-7:**

6 (h) "Renewable facility" means an installed and operational electric generating  
7 facility in which energy is derived from a renewable resource, but does not include  
8 a facility the installation or operation of which is required under the laws of another  
9 state.

10 **INSERT 8-8:**

11 <sup>NO</sup>~~§~~ a credit calculated in accordance with rules promulgated under sub. <sup>(3)</sup>~~(3)~~ (a)✓

12 **INSERT 8-22:**

13 ~~§~~ (n) "System renewable capacity" means the amount of electricity that an  
14 electric provider is capable of delivering to its retail customers and that is supplied  
15 by renewable facilities owned or operated by the electric provider. "System  
16 renewable capacity" does not include any electricity that is not used to satisfy the  
17 electric provider's retail load obligations.

18 ~~§~~ (o) "Total renewable capacity" means the sum of an electric provider's system  
19 and <sup>✓</sup>nonsystem renewable capacity.

20 **INSERT 8-23:**

21 <sup>NO</sup>~~§~~ sum of an electric provider's total <sup>NO</sup>~~§~~

22 **INSERT 8-24:**

23 <sup>NO</sup>~~§~~ and the amount of any renewable resource credit purchased by the electric provider  
24 under sub. (3) (a)✓ <sup>NO</sup>~~§~~

25 **INSERT 9-8:**




1           1. The amount of electricity supplied by a renewable facility is equal to the  
2 maximum amount of electricity that the facility is capable of generating as measured  
3 by the manufacturer's rating or periodic testing of the facility.


4           2. Notwithstanding subd. 1., the amount of electricity supplied by a renewable  
5 facility in which biomass and conventional fuels are fired together is equal to the  
6 product of the amount specified in subd. 1. and the ratio of the British thermal unit  
7 content of the biomass fuels to the British thermal unit content of both the biomass  
8 and conventional resource fuels.

9           3. Any excludable renewable capacity that exceeds 1% of an electric provider's  
10 state peak load share shall be deducted from the electric provider's total renewable  
11 capacity.

**INSERT 10-10:**

12  
13  The commission shall promulgate rules that establish requirements for calculating  
14 the amount of a renewable resource credit. The rules shall provide that a renewable  
15 resource credit is equal to the amount by which an electric provider's total renewable  
16 capacity, as calculated under sub. (2) (b), exceeds the percentage of the electric  
17 provider's state peak load share specified in sub. (2) (a) 1. to 6.

**INSERT 10-14:**

18  
19  (b) The commission shall promulgate rules that specify the method for  
20 calculating the amount of an electric provider's nonsystem renewable capacity.

**INSERT 13-5:**

21  
22 (s) "Retail capacity" means the total amount of electricity that an electric  
23 provider is capable of delivering to its retail customers and that is supplied by electric  
24 generating facilities owned or operated the electric provider or any other person.





INS 13-5 cont

1 "Retail capacity" does not include any electricity that is not used to satisfy the electric  
2 provider's retail load obligations.

3 **INSERT 13-18:**

4 or a municipal electric company, as defined in s. 66.073 (3) (d) <sup>✓</sup>

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1089/P2dn

MDK:A:....

JLg

Senator Burke:

Please review this draft, which is based on revisions to LRB-1089/P1 that were discussed with Margaret Becker. In particular, please note the following:

1. The definition of "electric provider" in proposed s. 196.96 (1) (f) is consistent with proposed s. 196.378 (1) (c). Note that the term is used in proposed s. 196.96 only in s. 196.96 (1) (d) and (j) and (2) (e) 3. (intro.) Is this okay?
2. The draft has an appropriation for proposed s. 20. 157 (1) (q), but no appropriation amount. Please contact me so that the draft may be revised after you have decided how much you want to appropriate for the board's general program operations.
3. The draft excludes municipal electric companies from the requirements of s. 196.374, stats. Is this okay?
4. An analysis will be prepared for the next version of the draft.

Mark D. Kunkel  
Legislative Attorney  
266-0131

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1089/P2dn  
MDK:jlj:jf

January 4, 1999

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Mark D. Kunkel  
Legislative Attorney  
266-0131



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-1089/P2  
MDK:jlg&kmg:jf

D-NOTE

P3

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

By  
Wednesday  
1/13  
if possible

RM not  
run

Regen

1 **AN ACT to amend** 196.374 (1) and 196.374 (2); and **to create** 15.07 (1) (a) 7., 15.07  
2 (1) (d), 15.792, 20.157, 25.17 (1) (xm), 25.96, 196.374 (1g) (a), (b) and (c), 196.374  
3 (4), 196.378 and 196.96 of the statutes; **relating to:** establishing programs for  
4 low-income energy assistance, improving energy conservation and efficiency  
5 markets and encouraging the development and use of renewable resources,  
6 creating a utility public benefits board, establishing a utility public benefits  
7 fund, requiring electric utilities and retail electric cooperatives to charge access  
8 fees to customers and members, imposing requirements on the use of renewable  
9 resources by electric utilities and cooperatives, requiring the exercise of  
10 rule-making authority, making appropriations and providing a penalty.

***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be prepared for a subsequent version.

For further information see the *state and local* 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.** 15.07 (1) (a) 7. of the statutes is created to read:

2           15.07 (1) (a) 7. Members of the utility public benefits board appointed under  
3 s. 15.792 (1) (b) or (c) shall be appointed as provided in s. 15.792 (1) (b) or (c) without  
4 senate confirmation.

5           **SECTION 2.** 15.07 (1) (d) of the statutes is created to read:

6           15.07 (1) (d) Except as provided in s. 15.792 (1) (b) 5. or 8. or (c), no member  
7 appointed to the utility public benefits board may be an employe of a utility, as  
8 defined in s. 196.374 (1).

9           **SECTION 3.** 15.792 of the statutes is created to read:

10           **15.792 Same; attached board. (1) UTILITY PUBLIC BENEFITS BOARD.** (a) In this  
11 subsection:

- 12           1. “Electric utility” has the meaning given in s. 196.96 (1) (g).  
13           2. “Low-income household” has the meaning given in s. 196.96 (1) (m).  
14           3. “Municipal utility” has the meaning given in s. 196.96 (1) (q).  
15           4. “Renewable resource” has the meaning given in s. 196.378 (1) (g).  
16           5. “Retail electric cooperative” has the meaning given in s. 196.96 (1) (t).  
17           6. “Small business” has the meaning given in s. 16.75 (4) (c).  
18           7. “Small business representative” means a director, manager, member, officer,  
19 owner or partner of a small business.

1 (b) There is created a utility public benefits board that is attached to the  
2 department of administration under s. 15.03. The board shall consist of the following  
3 members appointed for 3-year terms:

4 1. One member appointed by the governor who is a member of a low-income  
5 household or a group or organization that represents low-income households.

6 2. One member appointed by the president of the senate who is a residential  
7 electric utility customer or who represents a residential electric utility customer  
8 advocacy group.

9 3. One member appointed by the governor who is a small business  
10 representative or who represents a small business advocacy group.

11 4. One member appointed by the president of the senate who represents an  
12 environmental or renewable resource advocacy group.

13 5. One member appointed by the president of the senate who represents a  
14 municipal utility or retail electric cooperative or municipal utility or retail electric  
15 cooperative advocacy group.

16 6. One member appointed by the speaker of the assembly who is a member of  
17 a low-income household or a group or organization that represents low-income  
18 households.

19 7. One member appointed by the speaker of the assembly who represents an  
20 environmental or renewable resource advocacy group.

21 8. One member appointed by the speaker of the assembly who represents an  
22 electric utility or electric utility advocacy group.

23 9. One member appointed by the chairperson of the public service commission  
24 to represent the public service commission.

1           10. One member appointed by the secretary of natural resources to represent  
2 the department of natural resources.

3           11. One member appointed by the administrator of the division of housing in  
4 the department of administration to represent the division of housing.

5           (c) 1. a. Notwithstanding par. (b) (intro.) and 5., if fewer than one-third of the  
6 municipal utilities and retail electric cooperatives doing business in this state notify  
7 the board under s. 196.96 (5) (b) 1. that they have elected to contribute to any of the  
8 programs established under s. 196.96 (2) (a) or (b), the president of the senate shall  
9 appoint a representative of an electric utility or electric utility advocacy group to  
10 succeed the member appointed under par. (b) 5. and the member appointed under  
11 par. (b) 5. shall vacate his or her membership at the time that the member is  
12 appointed under this subd. 1. a. A member appointed under this subd. 1. a. shall  
13 serve on the board until a member is appointed under subd. 2.

14           b. If one-third or more of the municipal utilities and retail electric cooperatives  
15 doing business in this state notify the board under s. 196.96 (5) (b) 1. that they have  
16 elected to contribute to any of the programs established under s. 196.96 (2) (a) or (b),  
17 the member appointed under par. (b) 5. shall serve for a term expiring on the first  
18 day of the 48th month beginning after the effective date of this subd. 1. b. .... [revisor  
19 inserts date].

20           2. a. If one-third or more of the municipal utilities and retail electric  
21 cooperatives doing business in this state notify the board under s. 196.96 (5) (b) 2.  
22 that they have elected to contribute to any of the programs established under s.  
23 196.96 (2) (a) or (b), the president of the senate shall appoint one member to the board  
24 who is a representative of a municipal utility or retail electric cooperative or  
25 municipal utility or retail electric cooperative advocacy group for a 3-year term.

1           b. Notwithstanding par. (b) (intro.) or 5., if fewer than one-third of the  
 2 municipal utilities and retail electric cooperatives doing business in this state notify  
 3 the board under s. 196.96 (5) (b) 2. that they have elected to contribute to any of the  
 4 programs established under s. 196.96 (2) (a) or (b), the president of the senate shall  
 5 appoint a member to the board who is a representative of an electric utility or electric  
 6 utility advocacy group for a 3-year term.

7           **SECTION 4.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
 8 the following amounts for the purposes indicated:

9				1999-00	2000-01
10	<b>20.157</b>	<b>Utility public benefits board</b>			

11       (1)    LOW-INCOME ASSISTANCE, ENERGY CONSERVATION  
 12           AND EFFICIENCY AND RENEWABLE RESOURCES

13	(q)	General program operations	SEG	A	-0-	-0-
14	(s)	Compensation of intervenors	SEG	A	500,000	500,000

15       **SECTION 5.** 20.157 of the statutes is created to read:

16       **20.157 Utility public benefits board.** There is appropriated to the utility  
 17 public benefits board for the following programs:

18       (1)    LOW-INCOME ASSISTANCE, ENERGY CONSERVATION AND EFFICIENCY AND  
 19 RENEWABLE RESOURCES. (q) *General program operations.* From the utility public  
 20 benefits fund, the amounts in schedule for general program operations.

21       (r)    ~~Grants.~~ <sup>Low-Income Assistance I.</sup> From the utility public benefits fund, a sum sufficient for  
 22 low-income assistance grants under s. 196.96 (2) (a) ~~and energy conservation and~~  
 23 ~~efficiency and renewable resource grants under s. 196.96 (2) (b).~~

INSERT 5-23



(2) ✓  
(3) (c)

1

g +

(g) *Compensation of intervenors.* From the utility public benefits fund, the amounts in the schedule for compensating persons who intervene in hearings under the rules promulgated under s. 196.96 ~~(m)~~ 3.

3

**SECTION 6.** 25.17 (1) (xm) of the statutes is created to read:

25.17 (1) (xm) Utility public benefits fund (s. 25.96);

**SECTION 7.** 25.96 of the statutes is created to read:

**25.96 Utility public benefits fund.** There is established a separate nonlapsible trust fund designated as the utility public benefits fund, consisting of the access fees received under s. 196.96 (4) (a) and (5) (c) and (d) and contributions received under s. 196.96 ~~(m) and (n)~~ <sup>(2)</sup> (c) 4. and (d) 2.

10

**SECTION 8.** 196.374 (1) of the statutes is amended to read:

196.374 (1) In this section "utility" means a class A gas or electric utility, as defined by the commission, but does not include a municipal electric company, as defined in s. 66.073 (3) (d), a municipal utility, as defined in s. 196.96 (1) (q), or a cooperative association organized under ch. 185.

(1g) Every utility shall spend annually at least 0.5% each of the following percentages of its total annual operating revenues in each of the following fiscal years on programs designed to promote and accomplish energy conservation:

(1r) The commission may require a utility to spend annually for the purpose of promoting and accomplishing energy conservation, an amount which is more or less than 0.5% the percentage of its annual operating revenues specified in sub. (1g) if, after notice and hearing, the commission finds that the expenditure of such amount is in the public interest.

**SECTION 9.** 196.374 (1g) (a), (b) and (c) of the statutes are created to read:

196.374 (1g) (a) In fiscal year 1999-2000, 0.375%.

1 (b) In fiscal year 2000–01, 0.25%.

2 (c) In fiscal year 2001–02, 0.125%.

3 **SECTION 10.** 196.374 (2) of the statutes is amended to read:

4 196.374 (2) The commission may prescribe all or part of any program to be  
5 funded under sub. (1) (1g). The commission may require that a utility establish a  
6 program funded under sub. (1) (1g) which is applicable only to a group of consumers  
7 specified by the commission because the group has special energy conservation  
8 needs. Such a group may include, but is not limited to, low-income utility  
9 consumers, under guidelines established by the commission.

10 **SECTION 11.** 196.374 (4) of the statutes is created to read:

11 196.374 (4) This section does not apply after June 30, 2002.

12 **SECTION 12.** 196.378 of the statutes is created to read:

13 **196.378 Renewable resources. (1) DEFINITIONS.** In this section:

14 (a) “Biomass” means a resource that derives energy from wood or plant  
15 material or residue, biological waste, crops grown for use as a resource or landfill  
16 gases. “Biomass” does not include garbage, as defined in s. 289.01 (9), or industrial,  
17 commercial or household waste.

18 (b) “Conventional resource” means a resource that derives energy from coal, oil,  
19 nuclear power or natural gas, except for natural gas used in a fuel cell.

20 (c) “Electric provider” means an electric utility or retail electric cooperative.

21 (d) “Electric utility” means a public utility that generates, transmits, delivers  
22 or furnishes electricity, but does not include a municipal electric company, as defined  
23 in s. 66.073 (3) (d).

24 (e) “Excludable renewable capacity” means the portion of an electric provider’s  
25 total renewable capacity that is supplied from renewable facilities placed in service

1 before January 1, 1998, in which energy is derived from hydroelectric power or  
2 biomass.

3 (f) “Nonsystem renewable capacity” means the amount of electricity, as  
4 calculated in accordance with rules promulgated by the commission under sub. (4)  
5 (b), that an electric provider is capable of delivering to its retail customers and that  
6 is supplied under executed wholesale purchase contracts by renewable facilities that  
7 are not owned or operated by the electric provider. “Nonsystem renewable capacity”  
8 does not include any electricity that is not used to satisfy the electric provider’s retail  
9 load obligations.

10 (g) “Renewable resource” means any of the following:

- 11 1. A resource that derives energy from any of the following:
  - 12 a. A fuel cell that uses, as determined by the commission, a renewable fuel.
  - 13 b. Tidal or wave action.
  - 14 c. Solar thermal electric or photovoltaic energy.
  - 15 d. Wind power.
  - 16 e. Geothermal technology.
  - 17 f. Hydroelectric power.
  - 18 g. Biomass.
- 19 2. Any other resource, except a conventional resource, that the commission  
20 designates as a renewable resource in rules promulgated under sub. (4) (a).

21 (h) “Renewable facility” means an installed and operational electric generating  
22 facility in which energy is derived from a renewable resource, but does not include  
23 a facility the installation or operation of which is required under the laws of another  
24 state.

1 (i) “Renewable resource credit” means a credit calculated in accordance with  
2 rules promulgated under sub. (3) (a).

3 (j) “Resource” means a source of electric power generation.

4 (k) “Retail electric cooperative” means a cooperative association organized  
5 under ch. 185 for the purpose of providing electricity at retail to its members only.

6 (L) “State peak load” means the maximum amount of electricity that was  
7 delivered to all customers or members of all electric providers in this state at any one  
8 time during the period from May 1, 1996, to September 15, 1996.

9 (m) “State peak load share” means the amount of electricity that was delivered  
10 to all customers or members of an electric provider by the electric provider at the time  
11 that the state peak load was delivered to all customers or members of all electric  
12 providers in this state.

13 (n) “System renewable capacity” means the amount of electricity that an  
14 electric provider is capable of delivering to its retail customers and that is supplied  
15 by renewable facilities owned or operated by the electric provider. “System  
16 renewable capacity” does not include any electricity that is not used to satisfy the  
17 electric provider’s retail load obligations.

18 (o) “Total renewable capacity” means the sum of an electric provider’s system  
19 and nonsystem renewable capacity.

20 (2) RENEWABLE RESOURCE CAPACITY. (a) The sum of an electric provider’s total  
21 renewable capacity, as calculated under par. (b), and the amount of any renewable  
22 resource credit purchased by the electric provider under sub. (3) (a) shall be at least  
23 the following percentages of the electric provider’s state peak load share:

- 24 1. By December 31, 2000, 1%.
- 25 2. By December 31, 2002, 1.5%.

1           3. By December 31, 2004, 2%.

2           4. By December 31, 2006, 2.5%.

3           5. By December 31, 2008, 3%.

4           6. By December 31, 2010, 4%.

5           (b) An electric provider's total renewable capacity shall be calculated in  
6 accordance with each of the following:

7           1. The amount of electricity supplied by a renewable facility is equal to the  
8 maximum amount of electricity that the facility is capable of generating as measured  
9 by the manufacturer's rating or periodic testing of the facility.

10          2. Notwithstanding subd. 1., the amount of electricity supplied by a renewable  
11 facility in which biomass and conventional fuels are fired together is equal to the  
12 product of the amount specified in subd. 1. and the ratio of the British thermal unit  
13 content of the biomass fuels to the British thermal unit content of both the biomass  
14 and conventional resource fuels.

15          3. Any excludable renewable capacity that exceeds 1% of an electric provider's  
16 state peak load share shall be deducted from the electric provider's total renewable  
17 capacity.

18          **(3) RENEWABLE RESOURCE CREDITS.** (a) An electric provider that has a total  
19 renewable capacity that is more than the percentage of the electric provider's state  
20 peak load share specified in sub. (2) (a) 1. to 6. for the applicable year may sell to any  
21 other electric provider a renewable resource credit or a portion of a renewable  
22 resource credit. The commission shall promulgate rules that establish requirements  
23 for calculating the amount of a renewable resource credit. The rules shall provide  
24 that a renewable resource credit is equal to the amount by which an electric  
25 provider's total renewable capacity, as calculated under sub. (2) (b), exceeds the

1 percentage of the electric provider's state peak load share specified in sub. (2) (a) 1.  
2 to 6.

3 (b) The commission may promulgate rules that establish requirements and  
4 procedures for a sale under par. (a).

5 (4) RULES. (a) The commission may promulgate rules that designate a  
6 resource, except for a conventional resource, as a renewable resource in addition to  
7 the resources specified in sub. (1) (g) 1.

8 (b) The commission shall promulgate rules that specify the method for  
9 calculating the amount of an electric provider's nonsystem renewable capacity.

10 (c) The commission shall promulgate rules that establish a statewide bidding  
11 system for arranging transactions ~~between electric providers and sellers of~~ <sup>for purchases</sup>  
12 nonsystem renewable capacity. The commission may not require an electric provider  
13 to participate in the system established under rules promulgated under this  
14 paragraph.

15 (5) PENALTY. Any person who violates sub. (2) (a) shall forfeit no less than  
16 \$10,000 nor more than \$500,000. Forfeitures under this subsection shall be enforced  
17 by action on behalf of the state by the attorney general. A court imposing a forfeiture  
18 under this subsection shall consider all of the following in determining the amount  
19 of the forfeiture:

20 (a) The appropriateness of the forfeiture to the volume of business of the electric  
21 provider.

22 (b) The gravity of the violation.

23 (6) RECOMMENDATION TO LEGISLATURE. The commission may not recommend the  
24 repeal of this section to the legislature unless the commission finds, after a hearing,  
25 any of the following:

1 (a) That the market for renewable resources is competitive with the market for  
2 conventional resources.

3 (b) That the repeal of this section is in the public interest.

4 **SECTION 13.** 196.96 of the statutes is created to read:

5 **196.96 Utility public benefits.** (1) DEFINITIONS. In this section:

6 (a) "Board" means the utility public benefits board created in s. 15.792 (1) (b).

7 (b) "Community assistance program" means a program to provide assistance  
8 to, or to promote the welfare of, a community that includes the customers or members  
9 of a municipal utility or retail electric cooperative.

10 (c) "Commitment to community program" means a program by a municipal  
11 utility or retail electric cooperative for low-income assistance or a community  
12 assistance, energy conservation or load management program by a municipal utility  
13 or retail electric cooperative.

14 (d) "Customer application of renewable resources" means the generation of  
15 electricity from renewable resources that takes place on the premises of a customer  
16 of an electric provider.

17 (e) "Division of housing" means the division of housing in the department of  
18 administration.

19 (f) "Electric provider" means an electric utility or retail electric cooperative.

20 (g) "Electric utility" means a public utility that generates, transmits, delivers  
21 or furnishes electricity.

INSERT 12-21 ✓

22 (h) "Energy conservation program" means a program for reducing the demand  
23 for electricity during any period.

24 (i) "Fiscal year" has the meaning given in s. 655.001 (6).

*or its wholesale supplier*

1 (j) "Load management program" means a program that allows an electric  
2 provider to control electric usage by customers and reduce demand for electricity.

3 (k) "Local unit of government" means the governing body of any county, city,  
4 town, village or county utility district or the elected tribal governing body of a  
5 federally recognized American Indian tribe or band.

6 (L) "Low-income assistance" means assistance to low-income households for  
7 weatherization and other energy conservation services or payment of energy bills.

8 (m) "Low-income household" means any individual or group of individuals in  
9 this state who are living together as one economic unit and for whom residential  
10 electricity is customarily purchased in common or who make undesignated  
11 payments for electricity in the form of rent, and whose household income is not more  
12 than 150% of the poverty line as determined under 42 USC 9902 (2). *estimated*

13 (n) "Low-income need" means the amount obtained by subtracting from the  
14 total low-income energy bills in a fiscal year the product of 2.2% of the average  
15 annual income of low-income households in this state in that fiscal year multiplied  
16 by the *estimated* number of low-income households in this state in that fiscal year.

17 (o) "Low-income need percentage" means the percentage that results from  
18 dividing \$105,000,000 by the amount of low-income need in fiscal year 1998-99.

19 (p) "Low-income need target" means the product of the low-income need  
20 percentage multiplied by low-income need in a fiscal year.

21 (q) "Municipal utility" means an electric utility that is owned or operated  
22 wholly by a municipality.

23 (r) "Renewable resource" has the meaning given in s. 196.378 (1) (g).

24 (s) "Retail capacity" means the total amount of electricity that an electric  
25 provider is capable of delivering to its retail customers and that is supplied by electric



1 generating facilities owned or operated <sup>by</sup> the electric provider or any other person.  
2 "Retail capacity" does not include any electricity that is not used to satisfy the electric  
3 provider's retail load obligations.

4 (t) "Retail electric cooperative" means a cooperative association organized  
5 under ch. 185 for the purpose of providing electricity at retail to its members only.

6 (u) "Total low-income energy bills" means the total <sup>estimated</sup> amount that all low-income  
7 households are billed for residential electricity, natural gas or heating fuel in a fiscal  
8 year.

9 (v) "Wholesale electric cooperative" means a cooperative association organized  
10 under ch. 185 for the purpose of providing electricity at wholesale to its members  
11 only.

12 (w) "Wholesale supply percentage" means the percentage of a municipal  
13 utility's or retail electric cooperative's retail capacity in a fiscal year that is supplied  
14 by a wholesale supplier. <sup>that supplies electricity at wholesale</sup>

15 (x) "Wholesale supplier" means ~~a wholesale supplier of electricity including a~~  
16 wholesale electric cooperative or a municipal electric company, as defined in s. 66.073

17 (3) (d), to a municipal utility or retail electric cooperative.

18 (2) ~~BOARD DUTIES~~. The board shall do all of the following:

19 (a) <sup>INSERT 14-19</sup> After holding a hearing, establish programs to be administered by the  
20 department of administration through the division of housing for awarding grants  
21 from the appropriation under s. ~~20.157~~ <sup>20.157 (1)</sup> (r) to provide low-income assistance.

22 In each fiscal year, no less than the amount obtained by subtracting from  
23 \$50,000,000 the sum of all moneys received under 42 USC 6861 to 6873 in a fiscal  
24 year shall be awarded under this paragraph in grants for weatherization and other  
25 energy conservation services.

INSERT 15-1

1.

20.157(1)(5)

1 (b) Subject to ~~par. (a)~~, after holding a hearing, establish programs for awarding  
2 grants from the appropriation under s. ~~20.157(1)(5)~~ for each of the following:

3 a. Proposals for providing energy conservation or efficiency services. In  
4 awarding grants under this subdivision, the board shall give priority to proposals  
5 directed at the sectors of energy conservation or efficiency markets that are least  
6 competitive and at promoting environmental protection, electric system reliability  
7 or rural economic development. In each fiscal year, 1.75% of the amount obtained  
8 by subtracting from the appropriation under s. ~~20.157(1)(5)~~ the amount awarded  
9 under par. (a) shall be awarded in grants for research and development proposals  
10 regarding the environmental impacts of the electric industry.

11 b. Proposals for encouraging the development or use of customer applications  
12 of renewable resources, including educating customers about renewable resources  
13 or encouraging uses of renewable resources by customers or encouraging research  
14 technology transfers. In each fiscal year, the board shall ensure that 4.5% of the  
15 amount obtained by subtracting from the appropriation under s. ~~20.157(1)(5)~~ the  
16 amount awarded under par. (a) shall be awarded in grants under this subdivision.

17 (bm) The board may award grants under par. (b) only for proposals that are  
18 consistent with strategic energy assessments prepared by the commission under s.  
19 196.491 (2).

20 (c) For each fiscal year after 1998-99, determine the low-income need target  
21 for that fiscal year.

22 ~~(d)~~ For each fiscal year after 2002-03, determine whether to continue,  
23 discontinue or reduce any of the programs established under ~~par. (a)~~ and determine  
24 the total amount necessary to fund the programs that the board determines to

Subd. 1.

2.

Rules. I

1 continue or reduce under this <sup>subdivision</sup> paragraph. An amount determined under this  
2 paragraph may not exceed \$112,000,000.

3 (3) Promulgate rules establishing all of the following:

4 1. Eligibility requirements for low-income assistance under programs  
5 established under par. (a). The rules shall prohibit a person who receives  
6 low-income assistance from a municipal utility or retail electric cooperative under  
7 a program specified in sub. (5) (d) 2. b. or 3. a. from receiving low-income assistance  
8 under programs established under par. (a).

9 2. Requirements and procedures for applications for grants awarded under  
10 programs established under par. (a) or (b). I

11 2m. Criteria for the selection of proposals by the corporation specified in sub.  
12 (3) (b).

13 3. Requirements and procedures that allow an interested person, including a  
14 member of the public, to intervene in a hearing under par. (a) or (b) (intro.) and allow  
15 the board to award compensation from the appropriation under s. ~~100.157~~ (1) (s) to  
16 a person that is not an electric provider for some or all of the reasonable costs of  
17 intervening in a hearing if the board finds any of the following:

18 a. That the intervention is necessary to provide an adequate presentation of a  
19 significant position in which the person has a substantial interest and that an  
20 adequate presentation would not be possible without compensation.

21 b. That the intervention has provided a significant contribution to the  
22 establishment of a program and has caused a significant financial hardship to the  
23 person.

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157  
(1)  
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1 (f) Encourage customers to make voluntary contributions to assist in funding  
2 the programs established under pars. (a) and (b). The board shall deposit all  
3 contributions received under this paragraph in the utility public benefits fund.

4 (4) <sup>Requirements for</sup> Promulgate rules that require electric utilities to allow customers to include  
5 voluntary contributions to assist in funding a commitment to community program  
6 or a program established under par. (a) or (b) with bill payments for electric service.

7 The rules may require an electric utility to provide a space on an electric bill in which  
8 a customer may indicate the amount of a voluntary contribution and the customer's  
9 preference regarding whether a contribution should be used for a program  
10 established under par. (a) or (b) 1. <sup>a. or b.</sup> The rules shall establish requirements and

11 procedures for electric utilities to pay to the board any voluntary contributions  
12 included with bill payments and to report to the board customer preferences  
13 regarding use of the contributions. The board shall deposit all contributions received  
14 under this paragraph in the utility public benefits fund.

15 ~~(4)~~ Deposit all moneys received under sub. (4) (a) or (5) (c) or (d) in the utility  
16 public benefits fund. <sup>provide services under the</sup>

17 (3) CONTRACTS. (a) The division of housing shall, on the basis of competitive  
18 bids, contract with a community action agency described in s. 46.30 (2) (a) 1.,  
19 nonstock, nonprofit corporation organized under ch. 181 or a local unit of government  
20 to administer a program established under sub. (2) (a). <sup>ies</sup>

21 (b) The board shall, on the basis of competitive bids, contract with a nonstock,  
22 nonprofit corporation organized under ch. 181 to administer the programs  
23 established under sub. (2) (b), including soliciting proposals, processing grant  
24 applications, selecting, based on criteria specified in rules promulgated under sub.

INSERT 17-16 ✓

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(2) <sup>(c)</sup> 2m., proposals for the board to make awards and distributing grants to recipients.

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3

(4) ELECTRIC UTILITIES. (a) *Requirement to charge access fees.* Each electric utility, except for a municipal utility, shall charge each customer an access fee in an amount established in rules promulgated by the board under par. (b). An electric utility, except for a municipal utility, shall collect and pay the fees to the board in accordance with the rules promulgated under par. (b).

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(b) *Rules.* The board shall promulgate rules that establish the amount of an access fee that an electric utility shall charge a customer under par. (a) and requirements and procedures for an electric utility to collect and pay the fees to the board. Rules promulgated under this paragraph may allow an electric utility to charge different fees to different classes of customers, but no class of customers may be required to pay, in the aggregate, a disproportionate amount in comparison to any other class of customers. The rules shall prohibit an electric utility from itemizing an access fee on a customer's bill unless all other nonfuel costs are also itemized on the bill.

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(c) *Amount of access fees.* A fee established in rules promulgated under par. (b) shall satisfy each of the following:

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1. In fiscal year 1999-2000, a portion of the fee shall be an amount that is sufficient for the board to receive in access fees the amount obtained by subtracting from \$105,000,000 the sum of all moneys received under 42 USC 6861 to 6873 and 42 USC 8621 to 8629 for that fiscal year and 50% of the access fees charged by municipal utilities and retail electric cooperatives under sub. (5) (a) for that fiscal year. In each fiscal year after fiscal year 1999-2000, the portion of the fee specified in this subdivision shall be an amount that is sufficient for the board to receive from

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✓ 5 as estimated by the board ✓

INSEAT 19-6 ✓

(d) 1.

1 all electric utilities the amount obtained by subtracting from the amount of the  
 2 low-income need target determined by the board for that fiscal year under sub. (2)  
 3 the sum of all moneys received under 42 USC 6861 to 6873 and 42 USC 8621 to  
 4 8629 for that fiscal year and 50% of the access fees charged by municipal utilities and  
 5 retail electric cooperatives under sub. (5) (a) for that fiscal year.

6 2. For fiscal year 1999-2000, a portion of the access fee shall be in an amount  
 7 that is sufficient for the board to receive in access fees the amount obtained by  
 8 subtracting from \$28,000,000 20% of the access fees charged by municipal utilities  
 9 and retail electric cooperatives under sub. (5) (a) for that fiscal year. For fiscal year  
 10 2000-01, a portion of the access fee shall be in an amount that is sufficient for the  
 11 board to receive in access fees the amount obtained by subtracting from \$56,000,000  
 12 20% of the access fees charged by municipal utilities and retail electric cooperatives  
 13 under sub. (5) (a) for that fiscal year. For fiscal year 2001-02, a portion of the access  
 14 fee shall be in an amount that is sufficient for the board to receive in access fees the  
 15 amount obtained by subtracting from \$84,000,000 20% of the access fees charged by  
 16 municipal utilities and retail electric cooperatives under sub. (5) (a) for that fiscal  
 17 year. For fiscal year 2002-03, a portion of the access fee shall be in an amount that  
 18 is sufficient for the board to receive in access fees the amount obtained by subtracting  
 19 from \$112,000,000 20% of the access fees charged by municipal utilities and retail  
 20 electric cooperatives under sub. (5) (a) for that fiscal year. For each fiscal year after  
 21 2002-03, if the board determines under sub. (2) to <sup>(b) 2. ✓</sup> discontinue or reduce a  
 22 program established under sub. (2) (b), <sup>1.</sup> the portion of the fee specified in this  
 23 subdivision shall be an amount that is sufficient for the board to receive from all  
 24 electric utilities the amount obtained by subtracting from the amount of funding  
 25 determined by the board under sub. (2) 20% of the access fees charged by <sub>(b) 2. ✓</sub>

1 municipal utilities and retail electric cooperatives under sub. (5) (a) for that fiscal  
2 year.

3 *Electric bill increases?*  
3. For the period beginning on the effective date of this subdivision.... [revisor  
4 inserts date], and ending on June 30, 2008, the total increase in a customer's electric  
5 bills that is based on the requirement to pay access fees, may not exceed 3% of the  
6 total of every other charge for which the customer is billed for that period.

7 (5) MUNICIPAL UTILITIES AND RETAIL ELECTRIC COOPERATIVES. (a) *Requirement to*  
8 *charge access fees.* Each retail electric cooperative and municipal utility shall charge  
9 a monthly access fee to each customer or member in amount that is sufficient for the  
10 retail electric cooperative or municipal utility to collect an annual average of \$13.16  
11 per meter. A retail electric cooperative or municipal utility may determine the  
12 amount that a particular class of customers or members is required to pay under this  
13 paragraph and may charge different fees to different classes of customers or  
14 members.

15 (am) *Access fee restriction.* Notwithstanding par. (a), for the period beginning  
16 on the effective date of this paragraph .... [revisor inserts date], and ending on June  
17 30, 2008, the total increase in a customer's or member's electric bills that is based  
18 on the requirement to pay access fees may not exceed 3% of the total of every other  
19 charge for which the member or customer is billed for that period.

20 (b) *Election to contribute to board programs.* 1. No later than the first day of  
21 the 12th month beginning after the effective date of this subdivision .... [revisor  
22 inserts date], each municipal utility or retail electric cooperative shall notify the  
23 board whether it has elected to contribute to the programs established under sub. (2)

24 (a) or (b) for a 3-year period.

1           2. No later than every 3rd year after the date specified in subd. 1., each  
2 municipal utility or retail electric cooperative shall notify the board whether it has  
3 elected to contribute to the programs established under sub. (2) (a) or (b) for a 3-year  
4 period.

5           (c) *Full contribution.* If a municipal utility or retail electric cooperative elects  
6 under par. (b) 1. or 2. to contribute to the programs established both under sub. (2)  
7 (a) and under sub. (2) (b), it shall pay, except as provided in par. (dm), 100% of the  
8 access fees that it charges under par. (a) to the board in each fiscal year of the 3-year  
9 period for which it has made the election.

10           (d) *Partial contributions and commitment to community spending.* A  
11 municipal utility or retail electric cooperative not specified in par. (c) shall do one of  
12 the following:

13           1. If the municipal utility or retail electric cooperative elects to contribute only  
14 to the programs established under sub. (2) (a), the municipal utility or retail electric  
15 cooperative shall, in each fiscal year of the 3-year period for which it elects to  
16 contribute under par. (b) 1. or 2., do all of the following:

17           a. Except as provided in par. (dm), pay no less than 50% of the access fees that  
18 it charges under par. (a) to the board.

19           b. Spend no less than 20% of the access fees that it charges under par. (a) on  
20 energy conservation programs. No more than 10% of the amount that a municipal  
21 utility or retail electric cooperative spends on energy conservation programs under  
22 this subd. 1. b. may be spent on load management programs.

23           c. Spend any remaining amounts on community assistance or load  
24 management programs.



1.

1           2. If the municipal utility or retail electric cooperative elects to contribute only  
2 to the programs established under sub. (2) (b), the municipal utility or retail electric  
3 cooperative shall, in each fiscal year of the 3-year period for which it elects to  
4 contribute under par. (b) 1. or 2., do all of the following:

5           a. Except as provided in par. (dm), pay 20% of the access fees that it charges  
6 under par. (a) to the board.

7           b. Spend no less than 50% of the access fees that it charges under par. (a) on  
8 programs for low-income assistance.

9           c. Spend any remaining amounts on community assistance or load  
10 management programs.

1.

11           3. If the municipal utility or retail electric cooperative elects not to contribute  
12 to any of the programs established under sub. (2) (a) or (b), the municipal utility or  
13 retail electric cooperative shall, in each fiscal year of the 3-year period for which it  
14 elects not to contribute under par. (b) 1. or 2., do all of the following:

15           a. Spend no less than 50% of the access fees that it charges under par. (a) on  
16 programs for low-income assistance.

17           b. Spend no less than 20% of the access fees that it charges under par. (a) on  
18 energy conservation programs. No more than 10% of the amount that a municipal  
19 utility or retail electric cooperative spends on energy conservation programs under  
20 this subd. 3. b. may be spent on load management programs.

21           c. Spend any remaining amounts on community assistance or load  
22 management programs.

23           (dm) *Wholesale supplier compensation.* A municipal utility or retail electric  
24 cooperative may use no more than 10% of the access fee that it charges under par.  
25 (a) to compensate a wholesale supplier for the difference between the market price

1 of electricity that the wholesale supplier generates from renewable resources, as  
2 defined in s. 196.378 (1) (g), constructed after December 31, 1997, and the market  
3 price of electricity generated from conventional resources, as defined in s. 196.378  
4 (1) (b). A municipal utility or retail electric cooperative may deduct from the access  
5 fees that it is required to pay to the board under par. (c) or (d) 1. a. or 2. a. the amount  
6 that it uses to compensate a wholesale supplier under this paragraph.

7 (e) *Wholesale supplier credit.* If a wholesale supplier has established a program  
8 for low-income assistance, community assistance or an energy conservation or load  
9 management program, a municipal utility or retail electric cooperative that is a  
10 customer of the wholesale supplier may do any of the following:

11 1. Include an amount equal to the product of the municipal utility's or retail  
12 electric cooperative's wholesale supply percentage and the amount that the  
13 wholesale supplier has spent on low-income assistance in a fiscal year in calculating  
14 the amount that the municipal utility or retail electric cooperative has spent on  
15 low-income assistance in that fiscal year under par. (d) 2. b. or 3. a.

16 2. Include an amount equal to the product of the municipal utility's or retail  
17 electric cooperative's wholesale supply percentage and the amount that the  
18 wholesale supplier has spent on energy conservation programs or customer  
19 applications of renewable resources in a fiscal year in calculating the amount that  
20 the municipal utility or retail electric cooperative has spent on energy conservation  
21 programs under par. (d) 1. b. or 3. b.

22 (f) *Joint programs.* Municipal utilities or retail electric cooperatives may  
23 establish joint commitment to community programs, except that each municipal  
24 utility or retail electric cooperative that participates in a joint program is required  
25 to comply with the spending requirements under par. (d).

1 (g) *Reports.* 1. For each fiscal year, each municipal utility and retail electric  
2 cooperative that does not pay 100% of the access fee that it charges under par. (a) to  
3 the board under par. (c) shall file a report with the secretary of state that describes  
4 each of the following:

5 a. An accounting of access fees charged to customers or members under par. (a)  
6 in the fiscal year and expenditures on commitment to community programs under  
7 par. (d), including any amounts included in the municipal utility's or retail electric  
8 cooperative's calculations under par. (e).

9 b. A description of commitment to community programs established by the  
10 municipal utility or retail electric cooperative in the fiscal year.

11 2. The secretary of state shall maintain reports filed under subd. 1. for at least  
12 6 years.

13 **SECTION 14. Nonstatutory provisions.**

14 (1) INITIAL APPOINTMENTS TO UTILITY PUBLIC BENEFITS BOARD. Notwithstanding  
15 section 15.792 (1) (b) (intro.) of the statutes, as created by this act, the following  
16 initial members of the utility public benefits board shall be appointed by the first day  
17 of the 3rd month beginning after the effective date of this paragraph for the following  
18 terms:

19 (a) The members specified in section 15.792 (1) (b) 3., 4. and 9. of the statutes,  
20 as created by this act, for terms expiring on July 1, 2000.

21 (b) The members specified in section 15.792 (1) (b) 1., 2., 8. and 10. of the  
22 statutes, as created by this act, for terms expiring on July 1, 2001.

23 (c) The members specified in section 15.792 (1) (b) 6., 7. and 11. of the statutes,  
24 as created by this act, for terms expiring on July 1, 2002.

25 (END)  
INSERT 24-24 ✓

1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1089/P3  
MDK:.....

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**INSERT 5-23:**

2

3 ~~§~~(s) *Energy conservation and efficiency and renewable resource grants.* From the  
4 utility benefits fund, a sum sufficient for energy conservation and efficiency and  
5 renewable resource grants under s. 196.96 (2) (b) 1. ✓

5

**INSERT 12-21:**

6

~~§~~ has the meaning given in s. 196.378 (1) (d). ✓

7

**INSERT 14-19:**

8

~~§~~ *Low-income programs.*

9

**INSERT 15-1:**

10

~~§~~ *Energy conservation and efficiency and renewable resource programs.* ~~§~~

11

**INSERT 17-14:**

12

13 5. A method for estimating total low-income ✓ energy bills, average annual  
14 income of low-income households and the number of low-income households in a  
15 fiscal year for the purpose of determining the amount of low-income need in the fiscal  
16 year.

16

17 (d) *Other duties.* ✓ 1. For each fiscal year after 1998-99, determine the  
18 low-income need target for that fiscal year.

18

19 2. Encourage customers to make voluntary contributions to assist in funding  
20 the programs established under pars. (a) and (b) 1. ✓ The board shall deposit all  
21 contributions received under this paragraph ✓ in the utility public benefits fund.

21

**INSERT 17-16:**





1 of the permanent rules promulgated under that section, but not to exceed the period  
2 authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding  
3 section 227.24 (1) and (3) of the statutes, the board<sup>✓</sup> is not required to make a finding  
4 of emergency.

5 (b) The utility public benefits board shall submit in proposed form the rules  
6 required under section 196.96 (2) (c) and (4) (b)<sup>✓</sup> of the statutes, as created by this act,  
7 to the legislative council staff under section 227.15 (1)<sup>✓</sup> of the statutes no later than  
8 the first day of the 6th month beginning after the effective date of this paragraph.<sup>✓</sup>

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1089/P3dn

MDK:.....

1/9

Senator Burke:

Please review this version, which is based on my discussion with Curt Pawlisch and Margaret Becker, very carefully to make sure that it achieves your intent. In particular, note the deadline for submission of proposed rules in the draft's nonstatutory section. Is it okay?

Mark D. Kunkel  
Legislative Attorney  
266-0131

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1089/P3dn  
MDK:jlg:lulu

Monday, January 11, 1999

Senator Burke:

Please review this version, which is based on my discussion with Curt Pawlisch and Margaret Becker, very carefully to make sure that it achieves your intent. In particular, note the deadline for submission of proposed rules in the draft's nonstatutory section. Is it okay?

Mark D. Kunkel  
Legislative Attorney  
266-0131



## Kunkel, Mark

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**From:** Kunkel, Mark  
**Sent:** Wednesday, January 13, 1999 7:22 PM  
**To:** 'Margaret Becker'; 'pawlich@cwpb.com'  
**Subject:** RE: utility public benefits bill

Hi Margaret and Curt:

Regarding item 1 below, municipal electric companies are excluded from the definition of "electric utility" (see ss. 196.96 (1) (g) and 196.378 (1) (d)). Therefore, your suggested changes aren't necessary.

Regarding item 2, why not rewrite s. 196.378 (1)(e) entirely as:

"Excludable renewable capacity" means the portion of an electric provider's total renewable capacity that is supplied from renewable facilities placed in service before January 1, 1998, and in which, before January 1, 1998, energy was derived from hydroelectric power or biomass".

-----  
Mark Kunkel  
Legislative Attorney  
State of Wisconsin  
Legislative Reference Bureau

mark.kunkel@legis.state.wi.us  
(608) 266-0131

-----Original Message-----

From: Margaret Becker [mailto:becker@cwpb.com]  
Sent: Tuesday, January 12, 1999 1:11 PM  
To: Kunkel, Mark  
Subject: utility public benefits bill

Mark:

The 1/12/98 draft looks good. We only have two insertions to add.

1. On page 18, lines 8 and 10, we still need to add "municipal electric company" to the exception for municipal utilities. The text between the commas on lines 8 and 10 should read "except for a municipal utility or municipal electric company". The reason for this change is that a municipal electric company, which is only a wholesale seller, should not be subject to the public benefits program. The municipal utilities, which are the municipal retail entities, will collect the access fee from municipal customers pursuant to subsection 5.

2. On page 8, line 7, we need to insert the following sentence to ensure that subsection (e) does not exclude from renewable capacity any existing facilities that are later converted to use biomass fuel or hydroelectric power, such as, for example, a coal plant that is refitted to burn switchgrass: "Excludable renewable capacity does not include capacity that is supplied from renewable facilities placed in service before January 1, 1998, if, after January 1, 1998, the facility was converted from a facility that generates energy from a conventional resource to a facility that generates energy from biomass fuel or hydroelectric power.

Please call if you have any questions about these proposed inserts.

---

Margaret

## Kunkel, Mark

---

**From:** Curt Pawlisch [pawlisch@cwpb.com]  
**Sent:** Friday, January 15, 1999 9:59 AM  
**To:** Kunkel, Mark  
**Subject:** Public Utility Benefits bill

1. We liked your approach on "excludable renewable capacity."
2. I will be meeting with Barry in Burke's office this PM. Apparently, Leg. Council staff had some concerns about the bill draft so you may want to hold off on declaring that the draft is ready for introduction. I'll let you know what's going on after the meeting.

Thanks.

*- No change to 1.*  
*- Make change to "excludable renewable capacity"*

By Monday  
1:00pm  
if possible

D-NOTE

1

~~PRELIMINARY DRAFT NOT READY FOR INTRODUCTION~~

RM NOT  
RUN

Regen

1 AN ACT *to amend* 196.374 (1) and 196.374 (2); and *to create* 15.07 (1) (a) 7., 15.07

2 (1) (d), 15.792, 20.157, 25.17 (1) (xm), 25.96, 196.374 (1g) (a), (b) and (c), 196.374

3 (4), 196.378 and 196.96 of the statutes; **relating to:** establishing programs for

4 low-income energy assistance, improving energy conservation and efficiency

5 markets and encouraging the development and use of renewable resources,

6 creating a utility public benefits board, establishing a utility public benefits

7 fund, requiring electric utilities and retail electric cooperatives to charge access

8 fees to customers and members, imposing requirements on the use of renewable

9 resources by electric utilities and cooperatives, requiring the exercise of

10 rule-making authority, making appropriations and providing a penalty.

**Analysis by the Legislative Reference Bureau**

~~This is a preliminary draft. An analysis will be prepared for a subsequent version.~~

INSERT A ✓

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.** 15.07 (1) (a) 7. of the statutes is created to read:

2           15.07 (1) (a) 7. Members of the utility public benefits board appointed under  
3           s. 15.792 (1) (b) ~~and~~ shall be appointed as provided in s. 15.792 (1) (b) ~~and~~ without  
4           senate confirmation.

5           **SECTION 2.** 15.07 (1) (d) of the statutes is created to read:

6           15.07 (1) (d) Except as provided in s. 15.792 (1) (b) 5. or 8. ~~and~~, no member  
7           appointed to the utility public benefits board may be an employe of a utility, as  
8           defined in s. 196.374 (1).

9           **SECTION 3.** 15.792 of the statutes is created to read:

10           **15.792 Same; attached board. (1) UTILITY PUBLIC BENEFITS BOARD.** (a) In this  
11           subsection:

- 12           1. “Electric utility” has the meaning given in s. 196.96 (1) (g).
- 13           2. “Low-income household” has the meaning given in s. 196.96 (1) (m).
- 14           3. “Municipal utility” has the meaning given in s. 196.96 (1) (q).
- 15           4. “Renewable resource” has the meaning given in s. 196.378 (1) (g).
- 16           5. “Retail electric cooperative” has the meaning given in s. 196.96 (1) (t).
- 17           6. “Small business” has the meaning given in s. 16.75 (4) (c).
- 18           7. “Small business representative” means a director, manager, member, officer,  
19           owner or partner of a small business.

1 (b) There is created a utility public benefits board that is attached to the  
2 department of administration under s. 15.03. The board shall consist of the following  
3 members appointed for 3-year terms:

4 1. One member appointed by the governor who is a member of a low-income  
5 household or a group or organization that represents low-income households.

6 2. One member appointed by the president of the senate who is a residential  
7 electric utility customer or who represents a residential electric utility customer  
8 advocacy group.

9 3. One member appointed by the governor who is a small business  
10 representative or who represents a small business advocacy group.

11 4. One member appointed by the president of the senate who represents an  
12 environmental or renewable resource advocacy group.

INSERT  
3-13

13 5. One member appointed by the president of the senate who represents a  
14 ~~municipal utility or retail electric cooperative or municipal utility or retail electric~~  
15 ~~cooperative advocacy group.~~

16 6. One member appointed by the speaker of the assembly who is a member of  
17 a low-income household or a group or organization that represents low-income  
18 households.

19 7. One member appointed by the speaker of the assembly who represents an  
20 environmental or renewable resource advocacy group.

21 8. One member appointed by the speaker of the assembly who represents an  
22 electric utility or electric utility advocacy group.

23 9. One member appointed by the chairperson of the public service commission  
24 to represent the public service commission.

1           10. One member appointed by the secretary of natural resources to represent  
2 the department of natural resources.

3           11. One member appointed by the administrator of the division of housing in  
4 the department of administration to represent the division of housing.

5           (c) 1. a. Notwithstanding par. (b) (intro.) and 5., if fewer than one-third of the  
6 municipal utilities and retail electric cooperatives doing business in this state notify  
7 the board under s. 196.96 (5) (b) 1. that they have elected to contribute to any of the  
8 programs established under s. 196.96 (2) (a) or (b) 1., the president of the senate shall  
9 appoint a representative of an electric utility or electric utility advocacy group to  
10 succeed the member appointed under par. (b) 5. and the member appointed under  
11 par. (b) 5. shall vacate his or her membership at the time that the member is  
12 appointed under this subd. 1. a. A member appointed under this subd. 1. a. shall  
13 serve on the board <sup>for a 3-year term or</sup> until a member is appointed under subd. 2.

14           b. If one-third or more of the municipal utilities and retail electric cooperatives  
15 doing business in this state notify the board under s. 196.96 (5) (b) 1. that they have  
16 elected to contribute to any of the programs established under s. 196.96 (2) (a) or (b)  
17 1., the member appointed under par. (b) 5. shall serve for a term expiring on the first  
18 day of the 48th month beginning after the effective date of this subd. 1. b. .... [revisor  
19 inserts date].

20           <sup>and</sup> If one-third or more of the municipal utilities and retail electric  
21 cooperatives doing business in this state notify the board under s. 196.96 (5) (b) 2.  
22 that they have elected to contribute to any of the programs established under s.  
23 196.96 (2) (a) or (b) 1., the president of the senate shall appoint one member to the  
24 board who is a representative of a municipal utility or retail electric cooperative or  
25 municipal utility or retail electric cooperative advocacy group for a 3-year term.

~~REVISED~~

1 ~~b. Notwithstanding par. (b) (intro.) or 5., if fewer than one-third of the~~  
 2 ~~municipal utilities and retail electric cooperatives doing business in this state notify~~  
 3 ~~the board under s. 196.96 (5) (b) 2. that they have elected to contribute to any of the~~  
 4 ~~programs established under s. 196.96 (2) (a) or (b) 1., the president of the senate shall~~  
 5 ~~appoint a member to the board who is a representative of an electric utility or electric~~  
 6 ~~utility advocacy group for a 3-year term.~~

7 **SECTION 4.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
 8 the following amounts for the purposes indicated:

				1999-00	2000-01
10	<b>20.157 Utility public benefits board</b>				
11	(1) LOW-INCOME ASSISTANCE, ENERGY CONSERVATION				
12	AND EFFICIENCY AND RENEWABLE RESOURCES				
13	(q) General program operations	SEG	A	-0-	-0-
14	(t) Compensation of intervenors	SEG	A	500,000	500,000

15 **SECTION 5.** 20.157 of the statutes is created to read:

16 **20.157 Utility public benefits board.** There is appropriated to the utility  
 17 public benefits board for the following programs:

18 (1) LOW-INCOME ASSISTANCE, ENERGY CONSERVATION AND EFFICIENCY AND  
 19 RENEWABLE RESOURCES. (q) *General program operations.* From the utility public  
 20 benefits fund, the amounts in schedule for general program operations.

21 (r) *Low-income assistance grants.* From the utility public benefits fund, a sum  
 22 sufficient for low-income assistance grants under s. 196.96 (2) (a).



1           (s) *Energy conservation and efficiency and renewable resource grants.* From the  
2 utility benefits fund, a sum sufficient for energy conservation and efficiency and  
3 renewable resource grants under s. 196.96 (2) (b) 1.

4           (t) *Compensation of intervenors.* From the utility public benefits fund, the  
5 amounts in the schedule for compensating persons who intervene in hearings under  
6 the rules promulgated under s. 196.96 (2) (c) 3.

7           **SECTION 6.** 25.17 (1) (xm) of the statutes is created to read:

8           25.17 (1) (xm) Utility public benefits fund (s. 25.96);

9           **SECTION 7.** 25.96 of the statutes is created to read:

10          **25.96 Utility public benefits fund.** There is established a separate  
11 nonlapsible trust fund designated as the utility public benefits fund, consisting of the  
12 access fees received under s. 196.96 (4) (a) and (5) (c) and (d) and contributions  
13 received under s. 196.96 (2) (c) 4. and (d) 2.

14          **SECTION 8.** 196.374 (1) of the statutes is amended to read:

15          196.374 (1) In this section “utility” means a class A gas or electric utility, as  
16 defined by the commission, but does not include a municipal electric company, as  
17 defined in s. 66.073 (3) (d), a municipal utility, as defined in s. 196.96 (1) (q), or a  
18 cooperative association organized under ch. 185.

19          (1g) Every utility shall spend annually at least 0.5% each of the following  
20 percentages of its total annual operating revenues in each of the following fiscal  
21 years on programs designed to promote and accomplish energy conservation.:

22          (1r) The commission may require a utility to spend annually for the purpose  
23 of promoting and accomplishing energy conservation, an amount which is more or  
24 less than 0.5% the percentage of its annual operating revenues specified in sub. (1g)

1 if, after notice and hearing, the commission finds that the expenditure of such  
2 amount is in the public interest.

3 **SECTION 9.** 196.374 (1g) (a), (b) and (c) of the statutes are created to read:

4 196.374 (1g) (a) In fiscal year 1999–2000, 0.375%.

5 (b) In fiscal year 2000–01, 0.25%.

6 (c) In fiscal year 2001–02, 0.125%.

7 **SECTION 10.** 196.374 (2) of the statutes is amended to read:

8 196.374 (2) The commission may prescribe all or part of any program to be  
9 funded under sub. (1) (1g). The commission may require that a utility establish a  
10 program funded under sub. (1) (1g) which is applicable only to a group of consumers  
11 specified by the commission because the group has special energy conservation  
12 needs. Such a group may include, but is not limited to, low-income utility  
13 consumers, under guidelines established by the commission.

14 **SECTION 11.** 196.374 (4) of the statutes is created to read:

15 196.374 (4) This section does not apply after June 30, 2002.

16 **SECTION 12.** 196.378 of the statutes is created to read:

17 **196.378 Renewable resources. (1) DEFINITIONS.** In this section:

18 (a) “Biomass” means a resource that derives energy from wood or plant  
19 material or residue, biological waste, crops grown for use as a resource or landfill  
20 gases. “Biomass” does not include garbage, as defined in s. 289.01 (9), or industrial,  
21 commercial or household waste.

22 (b) “Conventional resource” means a resource that derives energy from coal, oil,  
23 nuclear power or natural gas, except for natural gas used in a fuel cell.

24 (c) “Electric provider” means an electric utility or retail electric cooperative.

1 (d) "Electric utility" means a public utility that generates, transmits, delivers  
2 or furnishes electricity, but does not include a municipal electric company, as defined  
3 in s. 66.073 (3) (d).

4 (e) "Excludable renewable capacity" means the portion of an electric provider's  
5 total renewable capacity that is supplied from renewable facilities placed in service  
6 before January 1, 1998, *and that, before January 1, 1998, derived electricity* from hydroelectric power or  
7 biomass. *that were*

8 (f) "Nonsystem renewable capacity" means the amount of electricity, as  
9 calculated in accordance with rules promulgated by the commission under sub. (4)  
10 (b), that an electric provider is capable of delivering to its retail customers and that  
11 is supplied under executed wholesale purchase contracts by renewable facilities that  
12 are not owned or operated by the electric provider. "Nonsystem renewable capacity"  
13 does not include any electricity that is not used to satisfy the electric provider's retail  
14 load obligations. *electricity*

15 (g) "Renewable resource" means any of the following:

- 16 1. A resource that derives ~~energy~~ *electricity* from any of the following:
  - 17 a. A fuel cell that uses, as determined by the commission, a renewable fuel.
  - 18 b. Tidal or wave action.
  - 19 c. Solar thermal electric or photovoltaic energy.
  - 20 d. Wind power.
  - 21 e. Geothermal technology.
  - 22 f. Hydroelectric power.
  - 23 g. Biomass.
- 24 2. Any other resource, except a conventional resource, that the commission  
25 designates as a renewable resource in rules promulgated under sub. (4) (a).

1 (h) "Renewable facility" means an installed and operational electric generating  
2 facility in which energy is derived from a renewable resource, but does not include  
3 a facility the installation or operation of which is required under the laws of another  
4 state.

5 (i) "Renewable resource credit" means a credit calculated in accordance with  
6 rules promulgated under sub. (3) (a).

7 (j) "Resource" means a source of electric power generation.

8 (k) "Retail electric cooperative" means a cooperative association organized  
9 under ch. 185 for the purpose of providing electricity at retail to its members only.

10 (L) "State peak load" means the maximum amount of electricity that was  
11 delivered to all customers or members of all electric providers in this state at any one  
12 time during the period from May 1, 1996, to September 15, 1996.

13 (m) "State peak load share" means the amount of electricity that was delivered  
14 to all customers or members of an electric provider by the electric provider at the time  
15 that the state peak load was delivered to all customers or members of all electric  
16 providers in this state.

17 (n) "System renewable capacity" means the amount of electricity that an  
18 electric provider is capable of delivering to its retail customers and that is supplied  
19 by renewable facilities owned or operated by the electric provider. "System  
20 renewable capacity" does not include any electricity that is not used to satisfy the  
21 electric provider's retail load obligations.

22 (o) "Total renewable capacity" means the sum of an electric provider's system  
23 and nonsystem renewable capacity.

24 (2) RENEWABLE RESOURCE CAPACITY. (a) The sum of an electric provider's total  
25 renewable capacity, as calculated under par. (b), and the amount of any renewable

1 resource credit purchased by the electric provider under sub. (3) (a) shall be at least  
2 the following percentages of the electric provider's state peak load share:

- 3 1. By December 31, 2000, 1%.
- 4 2. By December 31, 2002, 1.5%.
- 5 3. By December 31, 2004, 2%.
- 6 4. By December 31, 2006, 2.5%.
- 7 5. By December 31, 2008, 3%.
- 8 6. By December 31, 2010, 4%.

9 (b) An electric provider's total renewable capacity shall be calculated in  
10 accordance with each of the following:

11 1. The amount of electricity supplied by a renewable facility is equal to the  
12 maximum amount of electricity that the facility is capable of generating as measured  
13 by the manufacturer's rating or periodic testing of the facility.

14 2. Notwithstanding subd. 1., the amount of electricity supplied by a renewable  
15 facility in which biomass and conventional fuels are fired together is equal to the  
16 product of the amount specified in subd. 1. and the ratio of the British thermal unit  
17 content of the biomass fuels to the British thermal unit content of both the biomass  
18 and conventional resource fuels.

19 3. Any excludable renewable capacity that exceeds 1% of an electric provider's  
20 state peak load share shall be deducted from the electric provider's total renewable  
21 capacity.

22 **(3) RENEWABLE RESOURCE CREDITS.** (a) An electric provider that has a total  
23 renewable capacity that is more than the percentage of the electric provider's state  
24 peak load share specified in sub. (2) (a) 1. to 6. for the applicable year may sell to any  
25 other electric provider a renewable resource credit or a portion of a renewable

1 resource credit. The commission shall promulgate rules that establish requirements  
2 for calculating the amount of a renewable resource credit. The rules shall provide  
3 that a renewable resource credit is equal to the amount by which an electric  
4 provider's total renewable capacity, as calculated under sub. (2) (b), exceeds the  
5 percentage of the electric provider's state peak load share specified in sub. (2) (a) 1.  
6 to 6.

7 (b) The commission may promulgate rules that establish requirements and  
8 procedures for a sale under par. (a).

9 (4) RULES. (a) The commission may promulgate rules that designate a  
10 resource, except for a conventional resource, as a renewable resource in addition to  
11 the resources specified in sub. (1) (g) 1.

12 (b) The commission shall promulgate rules that specify the method for  
13 calculating the amount of an electric provider's nonsystem renewable capacity.

14 (c) The commission shall promulgate rules that establish a statewide bidding  
15 system for arranging transactions for purchases of nonsystem renewable capacity.  
16 The commission may not require an electric provider to participate in the system  
17 established under rules promulgated under this paragraph.

18 (5) PENALTY. Any person who violates sub. (2) (a) shall forfeit no less than  
19 \$10,000 nor more than \$500,000. Forfeitures under this subsection shall be enforced  
20 by action on behalf of the state by the attorney general. A court imposing a forfeiture  
21 under this subsection shall consider all of the following in determining the amount  
22 of the forfeiture:

23 (a) The appropriateness of the forfeiture to the volume of business of the electric  
24 provider.

25 (b) The gravity of the violation.

1           **(6) RECOMMENDATION TO LEGISLATURE.** The commission may not recommend the  
2 repeal of this section to the legislature unless the commission finds, after a hearing,  
3 any of the following:

4           (a) That the market for renewable resources is competitive with the market for  
5 conventional resources.

6           (b) That the repeal of this section is in the public interest.

7           **SECTION 13.** 196.96 of the statutes is created to read:

8           **196.96 Utility public benefits. (1) DEFINITIONS.** In this section:

9           (a) “Board” means the utility public benefits board created in s. 15.792 (1) (b).

10           (b) “Community assistance program” means a program to provide assistance  
11 to, or to promote the welfare of, a community that includes the customers or members  
12 of a municipal utility or retail electric cooperative.

13           (c) “Commitment to community program” means a program by a municipal  
14 utility or retail electric cooperative for low-income assistance or a community  
15 assistance, energy conservation or load management program by a municipal utility  
16 or retail electric cooperative.

17           (d) “Customer application of renewable resources” means the generation of  
18 electricity from renewable resources that takes place on the premises of a customer  
19 of an electric provider.

20           (e) “Division of housing” means the division of housing in the department of  
21 administration.

22           (f) “Electric provider” means an electric utility or retail electric cooperative.

23           (g) “Electric utility” has the meaning given in s. 196.378 (1) (d).

24           (h) “Energy conservation program” means a program for reducing the demand  
25 for electricity during any period.

1 (i) “Fiscal year” has the meaning given in s. 655.001 (6).

2 (j) “Load management program” means a program that allows an electric  
3 provider or its wholesale supplier to control electric usage by customers and reduce  
4 demand for electricity.

5 (k) “Local unit of government” means the governing body of any county, city,  
6 town, village or county utility district or the elected tribal governing body of a  
7 federally recognized American Indian tribe or band.

8 (L) “Low-income assistance” means assistance to low-income households for  
9 weatherization and other energy conservation services or payment of energy bills.

10 (m) “Low-income household” means any individual or group of individuals in  
11 this state who are living together as one economic unit and for whom residential  
12 electricity is customarily purchased in common or who make undesignated  
13 payments for electricity in the form of rent, and whose household income is not more  
14 than 150% of the poverty line as determined under 42 USC 9902 (2).

15 (n) “Low-income need” means the amount obtained by subtracting from the  
16 total low-income energy bills in a fiscal year the product of 2.2% of the estimated  
17 average annual income of low-income households in this state in that fiscal year  
18 multiplied by the estimated number of low-income households in this state in that  
19 fiscal year.

20 (o) “Low-income need percentage” means the percentage that results from  
21 dividing \$105,000,000 by the amount of low-income need in fiscal year 1998–99.

22 (p) “Low-income need target” means the product of the low-income need  
23 percentage multiplied by low-income need in a fiscal year.

24 (q) “Municipal utility” means an electric utility that is owned or operated  
25 wholly by a municipality.



1 (r) "Renewable resource" has the meaning given in s. 196.378 (1) (g).

2 (s) "Retail capacity" means the total amount of electricity that an electric  
3 provider is capable of delivering to its retail customers and that is supplied by electric  
4 generating facilities owned or operated by the electric provider or any other person.  
5 "Retail capacity" does not include any electricity that is not used to satisfy the electric  
6 provider's retail load obligations.

7 (t) "Retail electric cooperative" means a cooperative association organized  
8 under ch. 185 for the purpose of providing electricity at retail to its members only.

9 (u) "Total low-income energy bills" means the total estimated amount that all  
10 low-income households are billed for residential electricity, natural gas ~~or~~ heating <sup>and</sup>  
11 fuel in a fiscal year.

12 (v) "Wholesale electric cooperative" means a cooperative association organized  
13 under ch. 185 for the purpose of providing electricity at wholesale to its members  
14 only.

15 (w) "Wholesale supply percentage" means the percentage of a municipal  
16 utility's or retail electric cooperative's retail capacity in a fiscal year that is supplied  
17 by a wholesale supplier.

18 (x) "Wholesale supplier" means a wholesale electric cooperative or a municipal  
19 electric company, as defined in s. 66.073 (3) (d), that supplies electricity at wholesale  
20 to a municipal utility or retail electric cooperative.

21 (2) BOARD DUTIES. The board shall do all of the following:

22 (a) *Low-income programs.* After holding a hearing, establish programs to be  
23 administered by the department of administration through the division of housing  
24 for awarding grants from the appropriation under s. 20.157 (1) (r) to provide  
25 low-income assistance. In each fiscal year, no less than the amount obtained by

1 subtracting from \$50,000,000 the sum of all moneys received under 42 USC 6861 to  
2 6873 in a fiscal year shall be awarded under this paragraph in grants for  
3 weatherization and other energy conservation services.

4 (b) *Energy conservation and efficiency and renewable resource programs.* 1.  
5 Subject to subd. 2., after holding a hearing, establish programs for awarding grants  
6 from the appropriation under s. 20.157 (1) (s) for each of the following:

7 a. Proposals for providing energy conservation or efficiency services. In  
8 awarding grants under this subdivision, the board shall give priority to proposals  
9 directed at the sectors of energy conservation or efficiency markets that are least  
10 competitive and at promoting environmental protection, electric system reliability  
11 or rural economic development. In each fiscal year, 1.75% of the appropriation under  
12 s. 20.157 (1) (s) shall be awarded in grants for research and development proposals  
13 regarding the environmental impacts of the electric industry.

14 b. Proposals for encouraging the development or use of customer applications  
15 of renewable resources, including educating customers about renewable resources  
16 or encouraging uses of renewable resources by customers or encouraging research  
17 technology transfers. In each fiscal year, the board shall ensure that 4.5% of the  
18 appropriation under s. 20.157 (1) (s) shall be awarded in grants under this  
19 subdivision.

20 2. For each fiscal year after 2002–03, determine whether to continue,  
21 discontinue or reduce any of the programs established under subd. 1. and determine  
22 the total amount necessary to fund the programs that the board determines to  
23 continue or reduce under this subdivision. An amount determined under this  
24 paragraph may not exceed \$112,000,000.

25 (c) *Rules.* Promulgate rules establishing all of the following:

1           1. Eligibility requirements for low-income assistance under programs  
2 established under par. (a). The rules shall prohibit a person who receives  
3 low-income assistance from a municipal utility or retail electric cooperative under  
4 a program specified in sub. (5) (d) 2. b. or 3. a. from receiving low-income assistance  
5 under programs established under par. (a).

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

8           2m. Criteria for the selection of proposals by the corporation specified in sub.  
9 (3) (b).

10          3. Requirements and procedures that allow an interested person, including a  
11 member of the public, to intervene in a hearing under par. (a) or (b) 1. (intro.) and  
12 allow the board to award compensation from the appropriation under s. 20.157 (1)  
13 (t) to a person that is not an electric provider for some or all of the reasonable costs  
14 of intervening in a hearing if the board finds any of the following:

15           a. That the intervention is necessary to provide an adequate presentation of a  
16 significant position in which the person has a substantial interest and that an  
17 adequate presentation would not be possible without compensation.

18           b. That the intervention has provided a significant contribution to the  
19 establishment of a program and has caused a significant financial hardship to the  
20 person.

21          4. Requirements for electric utilities to allow customers to include voluntary  
22 contributions to assist in funding a commitment to community program or a program  
23 established under par. (a) or (b) 1. with bill payments for electric service. The rules  
24 may require an electric utility to provide a space on an electric bill in which a  
25 customer may indicate the amount of a voluntary contribution and the customer's

1 preference regarding whether a contribution should be used for a program  
2 established under par. (a) or (b) 1. a. or b. The rules shall establish requirements and  
3 procedures for electric utilities to pay to the board any voluntary contributions  
4 included with bill payments and to report to the board customer preferences  
5 regarding use of the contributions. The board shall deposit all contributions received  
6 under this paragraph in the utility public benefits fund.

7 5. A method for estimating total low-income energy bills, average annual  
8 income of low-income households and the number of low-income households in a  
9 fiscal year for the purpose of determining the amount of low-income need in the fiscal  
10 year.

11 (d) *Other duties.* 1. For each fiscal year after 1998–99, determine the  
12 low-income need target for that fiscal year.

13 2. Encourage customers to make voluntary contributions to assist in funding  
14 the programs established under pars. (a) and (b) 1. The board shall deposit all  
15 contributions received under this paragraph in the utility public benefits fund.

16 3. Deposit all moneys received under sub. (4) (a) or (5) (c) or (d) in the utility  
17 public benefits fund.

18 **(2m) STRATEGIC ENERGY ASSESSMENT CONSISTENCY.** The board may award grants  
19 under sub. (2) (b) 1. only for proposals that are consistent with strategic energy  
20 assessments prepared by the commission under s. 196.491 (2).

21 **(3) CONTRACTS.** (a) The division of housing shall, on the basis of competitive  
22 bids, contract with community action agencies described in s. 46.30 (2) (a) 1.,  
23 nonstock, nonprofit corporations organized under ch. 181 or local units of  
24 government to provide services under the programs established under sub. (2) (a).

1 (b) The board shall, on the basis of competitive bids, contract with a nonstock,  
2 nonprofit corporation organized under ch. 181 to administer the programs  
3 established under sub. (2) (b) 1., including soliciting proposals, processing grant  
4 applications, selecting, based on criteria specified in rules promulgated under sub.  
5 (2) (c) 2m., proposals for the board to make awards and distributing grants to  
6 recipients.

7 (4) *ELECTRIC UTILITIES.* (a) *Requirement to charge access fees.* Each electric  
8 utility, except for a municipal utility, shall charge each customer an access fee in an  
9 amount established in rules promulgated by the board under par. (b). An electric  
10 utility, except for a municipal utility, shall collect and pay the fees to the board in  
11 accordance with the rules promulgated under par. (b).

12 (b) *Rules.* The board shall promulgate rules that establish the amount of an  
13 access fee that an electric utility shall charge a customer under par. (a) and  
14 requirements and procedures for an electric utility to collect and pay the fees to the  
15 board. Rules promulgated under this paragraph may allow an electric utility to  
16 charge different fees to different classes of customers, but no class of customers may  
17 be required to pay, in the aggregate, a disproportionate amount in comparison to any  
18 other class of customers. The rules shall prohibit an electric utility from itemizing  
19 an access fee on a customer's bill unless all other nonfuel costs are also itemized on  
20 the bill.

21 (c) *Amount of access fees.* A fee established in rules promulgated under par. (b)  
22 shall satisfy each of the following:

23 1. 'Low-income funding.' In fiscal year 1999–2000, a portion of the fee shall  
24 be an amount that is sufficient for the board to receive in access fees the amount  
25 obtained by subtracting from \$105,000,000 the sum of all moneys received under 42

1 USC 6861 to 6873 and 42 USC 8621 to 8629 for that fiscal year and, as estimated by  
2 the board, and 50% of the access fees charged by municipal utilities and retail electric  
3 cooperatives under sub. (5) (a) for that fiscal year. In each fiscal year after fiscal year  
4 1999–2000, the portion of the fee specified in this subdivision shall be an amount that  
5 is sufficient for the board to receive from all electric utilities the amount obtained by  
6 subtracting from the amount of the low-income need target determined by the board  
7 for that fiscal year under sub. (2) (d) 1. the sum of all moneys received under 42 USC  
8 6861 to 6873 and 42 USC 8621 to 8629 for that fiscal year and 50% of the access fees  
9 charged by municipal utilities and retail electric cooperatives under sub. (5) (a) for  
10 that fiscal year.

11 2. 'Energy conservation and efficiency and renewable resource funding.' For  
12 fiscal year 1999–2000, a portion of the access fee shall be in an amount that is  
13 sufficient for the board to receive in access fees the amount obtained by subtracting  
14 from \$28,000,000 20% of the access fees charged by municipal utilities and retail  
15 electric cooperatives under sub. (5) (a) for that fiscal year. For fiscal year 2000–01,  
16 a portion of the access fee shall be in an amount that is sufficient for the board to  
17 receive in access fees the amount obtained by subtracting from \$56,000,000 20% of  
18 the access fees charged by municipal utilities and retail electric cooperatives under  
19 sub. (5) (a) for that fiscal year. For fiscal year 2001–02, a portion of the access fee shall  
20 be in an amount that is sufficient for the board to receive in access fees the amount  
21 obtained by subtracting from \$84,000,000 20% of the access fees charged by  
22 municipal utilities and retail electric cooperatives under sub. (5) (a) for that fiscal  
23 year. For fiscal year 2002–03, a portion of the access fee shall be in an amount that  
24 is sufficient for the board to receive in access fees the amount obtained by subtracting  
25 from \$112,000,000 20% of the access fees charged by municipal utilities and retail

1 electric cooperatives under sub. (5) (a) for that fiscal year. For each fiscal year after  
2 2002 03, if the board determines under sub. (2) (b) 2. to discontinue or reduce a  
3 program established under sub. (2) (b) 1., the portion of the fee specified in this  
4 subdivision shall be an amount that is sufficient for the board to receive from all  
5 electric utilities the amount obtained by subtracting from the amount of funding  
6 determined by the board under sub. (2) (b) 2. 20% of the access fees charged by  
7 municipal utilities and retail electric cooperatives under sub. (5) (a) for that fiscal  
8 year.

9 3. 'Electric bill increases.' For the period beginning on the effective date of this  
10 subdivision .... [revisor inserts date], and ending on June 30, 2008, the total increase  
11 in a customer's electric bills that is based on the requirement to pay access fees, may  
12 not exceed 3% of the total of every other charge for which the customer is billed for  
13 that period.

14 (5) MUNICIPAL UTILITIES AND RETAIL ELECTRIC COOPERATIVES. (a) *Requirement to*  
15 *charge access fees.* Each retail electric cooperative and municipal utility shall charge  
16 a monthly access fee to each customer or member in amount that is sufficient for the  
17 retail electric cooperative or municipal utility to collect an annual average of \$13.16  
18 per meter. A retail electric cooperative or municipal utility may determine the  
19 amount that a particular class of customers or members is required to pay under this  
20 paragraph and may charge different fees to different classes of customers or  
21 members.

22 (am) *Access fee restriction.* Notwithstanding par. (a), for the period beginning  
23 on the effective date of this paragraph .... [revisor inserts date], and ending on June  
24 30, 2008, the total increase in a customer's or member's electric bills that is based

1 on the requirement to pay access fees may not exceed 3% of the total of every other  
2 charge for which the member or customer is billed for that period.

3 (b) *Election to contribute to board programs.* 1. No later than the first day of  
4 the 12th month beginning after the effective date of this subdivision .... [revisor  
5 inserts date], each municipal utility or retail electric cooperative shall notify the  
6 board whether it has elected to contribute to the programs established under sub. (2)  
7 (a) or (b) 1. for a 3-year period.

8 2. No later than every 3rd year after the date specified in subd. 1., each  
9 municipal utility or retail electric cooperative shall notify the board whether it has  
10 elected to contribute to the programs established under sub. (2) (a) or (b) 1. for a  
11 3-year period.

12 (c) *Full contribution.* If a municipal utility or retail electric cooperative elects  
13 under par. (b) 1. or 2. to contribute to the programs established both under sub. (2)  
14 (a) and under sub. (2) (b) 1., it shall pay, except as provided in par. (dm), 100% of the  
15 access fees that it charges under par. (a) to the board in each fiscal year of the 3-year  
16 period for which it has made the election.

17 (d) *Partial contributions and commitment to community spending.* A  
18 municipal utility or retail electric cooperative not specified in par. (c) shall do one of  
19 the following:

20 1. If the municipal utility or retail electric cooperative elects to contribute only  
21 to the programs established under sub. (2) (a), the municipal utility or retail electric  
22 cooperative shall, in each fiscal year of the 3-year period for which it elects to  
23 contribute under par. (b) 1. or 2., do all of the following:

24 a. Except as provided in par. (dm), pay no less than 50% of the access fees that  
25 it charges under par. (a) to the board.



1           b. Spend no less than 20% of the access fees that it charges under par. (a) on  
2 energy conservation programs. No more than 10% of the amount that a municipal  
3 utility or retail electric cooperative spends on energy conservation programs under  
4 this subd. 1. b. may be spent on load management programs.

5           c. Spend any remaining amounts on community assistance or load  
6 management programs.

7           2. If the municipal utility or retail electric cooperative elects to contribute only  
8 to the programs established under sub. (2) (b) 1., the municipal utility or retail  
9 electric cooperative shall, in each fiscal year of the 3-year period for which it elects  
10 to contribute under par. (b) 1. or 2., do all of the following:

11           a. Except as provided in par. (dm), pay 20% of the access fees that it charges  
12 under par. (a) to the board.

13           b. Spend no less than 50% of the access fees that it charges under par. (a) on  
14 programs for low-income assistance.

15           c. Spend any remaining amounts on community assistance or load  
16 management programs.

17           3. If the municipal utility or retail electric cooperative elects not to contribute  
18 to any of the programs established under sub. (2) (a) or (b) 1., the municipal utility  
19 or retail electric cooperative shall, in each fiscal year of the 3-year period for which  
20 it elects not to contribute under par. (b) 1. or 2., do all of the following:

21           a. Spend no less than 50% of the access fees that it charges under par. (a) on  
22 programs for low-income assistance.

23           b. Spend no less than 20% of the access fees that it charges under par. (a) on  
24 energy conservation programs. No more than 10% of the amount that a municipal

1 utility or retail electric cooperative spends on energy conservation programs under  
2 this subd. 3. b. may be spent on load management programs.

3 c. Spend any remaining amounts on community assistance or load  
4 management programs.

5 (dm) *Wholesale supplier compensation.* A municipal utility or retail electric  
6 cooperative may use no more than 10% of the access fee that it charges under par.  
7 (a) to compensate a wholesale supplier for the difference between the market price  
8 of electricity that the wholesale supplier generates from renewable resources, as  
9 defined in s. 196.378 (1) (g), constructed after December 31, 1997, and the market  
10 price of electricity generated from conventional resources, as defined in s. 196.378  
11 (1) (b). A municipal utility or retail electric cooperative may deduct from the access  
12 fees that it is required to pay to the board under par. (c) or (d) 1. a. or 2. a. the amount  
13 that it uses to compensate a wholesale supplier under this paragraph.

14 (e) *Wholesale supplier credit.* If a wholesale supplier has established a program  
15 for low-income assistance, community assistance or an energy conservation or load  
16 management program, a municipal utility or retail electric cooperative that is a  
17 customer of the wholesale supplier may do any of the following:

18 1. Include an amount equal to the product of the municipal utility's or retail  
19 electric cooperative's wholesale supply percentage and the amount that the  
20 wholesale supplier has spent on low-income assistance in a fiscal year in calculating  
21 the amount that the municipal utility or retail electric cooperative has spent on  
22 low-income assistance in that fiscal year under par. (d) 2. b. or 3. a.

23 2. Include an amount equal to the product of the municipal utility's or retail  
24 electric cooperative's wholesale supply percentage and the amount that the  
25 wholesale supplier has spent on energy conservation programs or customer

1 applications of renewable resources in a fiscal year in calculating the amount that  
2 the municipal utility or retail electric cooperative has spent on energy conservation  
3 programs under par. (d) 1. b. or 3. b.

4 (f) *Joint programs.* Municipal utilities or retail electric cooperatives may  
5 establish joint commitment to community programs, except that each municipal  
6 utility or retail electric cooperative that participates in a joint program is required  
7 to comply with the spending requirements under par. (d).

8 (g) *Reports.* 1. For each fiscal year, each municipal utility and retail electric  
9 cooperative that does not pay 100% of the access fee that it charges under par. (a) to  
10 the board under par. (c) shall file a report with the secretary of state that describes  
11 each of the following:

12 a. An accounting of access fees charged to customers or members under par. (a)  
13 in the fiscal year and expenditures on commitment to community programs under  
14 par. (d), including any amounts included in the municipal utility's or retail electric  
15 cooperative's calculations under par. (e).

16 b. A description of commitment to community programs established by the  
17 municipal utility or retail electric cooperative in the fiscal year.

18 2. The secretary of state shall maintain reports filed under subd. 1. for at least  
19 6 years.

20 **SECTION 14. Nonstatutory provisions.**

21 (1) INITIAL APPOINTMENTS TO UTILITY PUBLIC BENEFITS BOARD. Notwithstanding  
22 section 15.792 (1) (b) (intro.) of the statutes, as created by this act, the following  
23 initial members of the utility public benefits board shall be appointed by the first day  
24 of the 3rd month beginning after the effective date of this paragraph for the following  
25 terms:

Handwritten notes: A circled "9" with "(a)" next to it, and a checkmark below it.

INSEAT  
25-6

1. ~~1a~~ The members specified in section 15.792 (1) (b) 3., 4. and 9. of the statutes, as created by this act, for terms expiring on July 1, 2000.

2. ~~2a~~ The members specified in section 15.792 (1) (b) 1., 2., 8. and 10. of the statutes, as created by this act, for terms expiring on July 1, 2001.

3. ~~3a~~ The members specified in section 15.792 (1) (b) 6., 7. and 11. of the statutes, as created by this act, for terms expiring on July 1, 2002.

(2) PUBLIC SERVICE COMMISSION RULES.

(a) Using the procedure under section 227.24 of the statutes, the public service commission shall promulgate the rules required under section 196.378 (3) (a) and (4) (b) and (c) of the statutes, as created by this act, for the period before the effective date of the permanent rules promulgated under that section, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) and (3) of the statutes, the commission is not required to make a finding of emergency.

(b) The public service commission shall submit in proposed form the rules required under section 196.378 (3) (a) and (4) (b) and (c) of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 6th month beginning after the effective date of this paragraph.

(3) UTILITY PUBLIC BENEFITS BOARD RULES.

(a) Using the procedure under section 227.24 of the statutes, the utility public benefits board shall promulgate the rules required under section 196.96 (2) (c) and (4) (b) of the statutes, as created by this act, for the period before the effective date of the permanent rules promulgated under that section, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding

1 section 227.24 (1) and (3) of the statutes, the board is not required to make a finding  
2 of emergency.

3 (b) The utility public benefits board shall submit in proposed form the rules  
4 required under section 196.96 (2) (c) and (4) (b) of the statutes, as created by this act,  
5 to the legislative council staff under section 227.15 (1) of the statutes no later than  
6 the first day of the 6th month beginning after the effective date of this paragraph.

7 (END)

1

INSERT A:

This bill creates a utility public benefits board (board), which is required to establish programs for providing energy assistance to low-income households and conservation and efficiency services and for encouraging the development and use of renewable energy resources. The bill also imposes certain requirements on the generation of electricity from renewable energy resources by public utilities and retail cooperative associations.

*Utility public benefits board*

The board, which is attached to the department of administration (DOA), is required to establish programs for each of the following: 1) assisting low-income households with weatherization and energy conservation services and payment of energy bills (low-income assistance programs); 2) providing energy conservation and efficiency services to eligible recipients (conservation programs); and 3) encouraging the development and use of renewable energy resources (renewables programs). The board must hold a hearing before establishing the programs. Interested persons, including members of the public, may intervene in a hearing and, under certain circumstances, receive compensation from the board for the reasonable costs of intervention.

The bill requires the division of housing in DOA to contract with certain nonprofit or governmental entities for the administration of the low-income assistance programs. The board must contract with a nonprofit corporation for the administration of the conservation and renewables programs. Under the low-income assistance programs, in each fiscal year, no less than the difference between \$50,000,000 and the amount of funding received by the state under certain federal low-income assistance and weatherization programs (federal programs) must be used for purposes other than paying energy bills. The bill also specifies the amounts that must be used for certain purposes under the conservation and renewables programs.

The programs established by the board are funded by an access fee that the board collects from nonmunicipal electric public utilities, which must charge the access fees to their customers. Municipal electric public utilities and retail electric cooperatives (municipal utilities and cooperatives) are also required to charge an access fee to their customers or members. Every ~~2~~<sup>three</sup> years, a municipal utility or cooperative may elect to contribute all or a specified portion of the access fees to the board for the programs established by the board. A municipal utility or cooperative that does not elect to contribute all of the access fees to the board must spend specified portions of the access fees on its own "commitment to community programs", which are defined as low-income assistance programs, energy conservation programs and programs for promoting the welfare of communities that include the municipal utility's or cooperative's customers or members.

Each municipal utility and cooperative must charge an access fee that is sufficient for the utility or cooperative to collect an annual average of \$13.16 per

meter. However, for the period ending on June 30, 2008, the amount of any increase to an electric bill that is based on the access fee charged by a municipal utility or cooperative may not exceed 3% of the total of every other charge billed during that period.

For nonmunicipal utilities, the bill directs the board to determine the amount of the access fee, which consists of a portion sufficient to fund the low income programs and a portion sufficient to fund the other programs. In fiscal year 1999-~~00~~<sup>2000</sup>, the portion for low-income programs must be in an amount that is sufficient for the board to collect the amount that results from subtracting the sum of the following from \$105,000,000: 1) the amount received by the state under the federal programs; and 2) 50% of the access fees charged by municipal utilities and cooperatives. For fiscal years after 1999-~~00~~<sup>2000</sup>, the low-income portion is determined by subtracting this sum from an amount of low-income need that is based on the amount of need for fiscal year 1998-99. The portion of the access fee for the other programs must be sufficient for the board to collect from nonmunicipal utilities the difference between 20% of the access fees charged by municipal utilities and cooperatives and the following amounts: ~~\$28,000,000~~ for fiscal year 1999-~~00~~<sup>2000</sup>, ~~\$26,000,000~~ for fiscal year 2000-01, ~~\$84,000,000~~ for fiscal year 2001-02, and ~~\$121,000,000~~ for fiscal year 2002-03. After fiscal year 2002-03, the board may reduce the amount that must be collected for this portion if the board discontinues or reduces any of the conservation or renewables programs. The total access fee paid by a customer of a nonmunicipal utility is subject to the same 3% limit that applies to a municipal utility or cooperative.

\$56,000,000;

\$112,000,000

\$84,000,000;

2000,  
\$28,000,000

j

The bill also requires certain electric utilities to spend a specified percentage of annual operating revenues on energy conservation programs. Under current law, the electric utilities are required to spend at least 0.5% of their annual operating revenues on energy conservation programs. The bill requires instead that the electric utilities spend the following percentages of annual operating revenues on energy conservation programs: 0.375% in fiscal year 1999-00, ~~0.25%~~ in fiscal year 2000-01, and 0.125% in fiscal year 2001-02.

0.25%;

The bill imposes other requirements on the board's programs and the commitment to community programs, including the following:

1. The bill requires public utilities to allow electric customers to make contributions to the board's programs or the commitment to community programs.
2. For purposes of determining whether a municipal utility or cooperative has spent a required amount on a commitment to community program, the bill allows a municipal utility or cooperative to receive credit for spending by its wholesale electric supplier on the supplier's own commitment to community programs.
3. The bill imposes certain reporting requirements on municipal utilities and cooperatives that spend access fees on commitment to community programs.

**Renewable energy resources**

Under this bill, a certain percentage of the electricity generated by a public utility or retail cooperative must be generated from renewable energy resources. The percentage is calculated on the basis of a public utility's or retail cooperative's "state peak load share", which is defined as the amount of electricity that the public utility

or retail cooperative delivered to its customers or members at that time during the summer of 1996 that the maximum amount of electricity was delivered to all customers and members of all public utilities and retail cooperatives. The following percentages of a public utility's or retail cooperative's state peak load share must be generated from renewable resources: ~~1%~~ by December 31, 2000; ~~2%~~ by December 31, 2002; ~~3%~~ by December 31, 2004; ~~4%~~ by December 31, 2006; ~~5%~~ by December 31, 2008; and ~~6%~~ by December 31, 2010.

1.5%

1.3%

1%

2.7%

2.5%

The bill allows a municipal public utility or retail cooperative to receive a credit for the amount of electricity generated from renewable resources by a wholesale supplier. In addition, the bill allows public utilities and retail cooperatives to purchase credits from other public utilities and retail cooperatives that generate electricity from renewable resources in excess of the required percentages of system peak load share. The bill also includes requirements for calculating capacity that is supplied from renewable resources.

1.4%

**INSERT 3-13:**

1

2

one of the following:

3

a. A municipal utility or retail electric cooperative or municipal utility or retail electric cooperative advocacy group, if one-third or more of the municipal utilities and retail electric cooperatives doing business in this state notify the board under s. 196.96 (5) (b) 2. that they have elected to contribute to any of the programs established under s. 196.96 (2) (a) or (b) 1.

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5

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b. An electric utility or electric utility advocacy group, if fewer than one-third of the municipal utilities and retail electric cooperatives doing business in this state notify the board under s. 196.96 (5) (b) 2. that they have elected to contribute to any of the programs established under s. 196.96 (2) (a) or (b) 1.

9

10

11

**INSERT 25-6:**

12

13

~~nonstat~~ (b) The public utilities benefit board shall include a member appointed by the president of the senate without senate confirmation who represents one of the following:

autoref B

14

15

16

1. A municipal utility or retail electric cooperative or municipal utility or retail electric cooperative advocacy group, if one-third or more of the municipal utilities

17



1 and retail electric cooperatives doing business in this state notify the board under  
2 section 196.96 (5) (b) 1. ✓ of the statutes, as created by this act, that they have elected  
3 to contribute to any of the programs established under section 196.96 (2) (a) or (b)  
4 1. of the statutes, as created by this act.

5 2 . An electric utility or electric utility advocacy group, if fewer than one-third  
6 of the municipal utilities and retail electric cooperatives doing business in this state  
7 notify the board under section 196.96 (5) (b) 1. ✓ of the statutes, as created by this act,  
8 that they have elected to contribute to any of the programs established under section  
9 196.96 (2) (a) or (b) 1. of the statutes, as created by this act. Notwithstanding section  
10 15.07 (1) (d) ✓ of the statutes, as created by this act, the member appointed under this  
11 subdivision ✓ may be an employe of a utility, as defined in section 196.374 (1) of the  
12 statutes.

13 nonstat (c) The member of the utility public benefits board appointed under paragraph  
14 ✓ auto ref B (b) shall serve on the board for a term that expires when a member is appointed under  
15 section 15.792 (1) (b) 5. ✓ of the statutes, as created by this act.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1089/1dn

MDK: A:...

*JK*

Senator Burke:

Please review this bill, which is based on changes to LRB-1089/P3 that were discussed with Curt Pawlisch and Margaret Becker, very carefully to make sure that it achieves your intent.

If you have any questions or redraft instructions, please contact me.

Mark D. Kunkel  
Legislative Attorney  
Phone: (608) 266-0131  
E-mail: [Mark.Kunkel@legis.state.wi.us](mailto:Mark.Kunkel@legis.state.wi.us)

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**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1089/1dn  
MDK:jlg:lp

February 10, 1999

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Mark D. Kunkel  
Legislative Attorney  
Phone: (608) 266-0131  
E-mail: [Mark.Kunkel@legis.state.wi.us](mailto:Mark.Kunkel@legis.state.wi.us)

## 1999 BILL

1 AN ACT *to amend* 196.374 (1) and 196.374 (2); and *to create* 15.07 (1)(a) 7., 15.07  
2 (1)(d), 15.792, 20.157, 25.17 (1)(xm), 25.96, 196.374 (1g) (a), (b) and (c), 196.374  
3 (4), 196.378 and 196.96 of the statutes; **relating to:** establishing programs for  
4 low-income energy assistance, improving energy conservation and efficiency  
5 markets and encouraging the development and use of renewable resources,  
6 creating a utility public benefits board, establishing a utility public benefits  
7 fund, requiring electric utilities and retail electric cooperatives to charge access  
8 fees to customers and members, imposing requirements on the use of renewable  
9 resources by electric utilities and cooperatives, requiring the exercise of  
10 rule-making authority, making appropriations and providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

This bill creates a utility public benefits board (board), which is required to establish programs for providing energy assistance to low-income households and conservation and efficiency services and for encouraging the development and use of renewable energy resources. The bill also imposes certain requirements on the generation of electricity from renewable energy resources by public utilities and retail cooperative associations.

**BILL*****Utility public benefits board***

The board, which is attached to the department of administration (DOA), is required to establish programs for each of the following: 1) assisting low-income households with weatherization and energy conservation services and payment of energy bills (low-income assistance programs); 2) providing energy conservation and efficiency services to eligible recipients (conservation programs); and 3) encouraging the development and use of renewable energy resources (renewables programs). The board must hold a hearing before establishing the programs. Interested persons, including members of the public, may intervene in a hearing and, under certain circumstances, receive compensation from the board for the reasonable costs of intervention.

The bill requires the division of housing in DOA to contract with certain nonprofit or governmental entities for the administration of the low-income assistance programs. The board must contract with a nonprofit corporation for the administration of the conservation and renewables programs. Under the low-income assistance programs, in each fiscal year, no less than the difference between \$50,000,000 and the amount of funding received by the state under certain federal low-income assistance and weatherization programs (federal programs) must be used for purposes other than paying energy bills. The bill also specifies the amounts that must be used for certain purposes under the conservation and renewables programs.

The programs established by the board are funded by an access fee that the board collects from nonmunicipal electric public utilities, which must charge the access fees to their customers. Municipal electric public utilities and retail electric cooperatives (municipal utilities and cooperatives) are also required to charge an access fee to their customers or members. Every three years, a municipal utility or cooperative may elect to contribute all or a specified portion of the access fees to the board for the programs established by the board. A municipal utility or cooperative that does not elect to contribute all of the access fees to the board must spend specified portions of the access fees on its own "commitment to community programs", which are defined as low-income assistance programs, energy conservation programs and programs for promoting the welfare of communities that include the municipal utility's or cooperative's customers or members.

Each municipal utility and cooperative must charge an access fee that is sufficient for the utility or cooperative to collect an annual average of \$13.16 per meter. However, for the period ending on June 30, 2008, the amount of any increase to an electric bill that is based on the access fee charged by a municipal utility or cooperative may not exceed 3% of the total of every other charge billed during that period.

For nonmunicipal utilities, the bill directs the board to determine the amount of the access fee, which consists of a portion sufficient to fund the low income programs and a portion sufficient to fund the other programs. In fiscal year 1999-2000, the portion for low-income programs must be in an amount that is sufficient for the board to collect the amount that results from subtracting the sum of the following from \$105,000,000: 1) the amount received by the state under the

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federal programs; and 2) 50% of the access fees charged by municipal utilities and cooperatives. For fiscal years after 1999–2000, the low-income portion is determined by subtracting this sum from an amount of low-income need that is based on the amount of need for fiscal year 1998–99. The portion of the access fee for the other programs must be sufficient for the board to collect from nonmunicipal utilities the difference between 20% of the access fees charged by municipal utilities and cooperatives and the following amounts: for fiscal year 1999–2000, \$28,000,000; for fiscal year 2000–01, \$56,000,000; for fiscal year 2001–02, \$84,000,000; and for fiscal year 2002–03, \$112,000,000. After fiscal year 2002–03, the board may reduce the amount that must be collected for this portion if the board discontinues or reduces any of the conservation or renewables programs. The total access fee paid by a customer of a nonmunicipal utility is subject to the same 3% limit that applies to a municipal utility or cooperative.

The bill also requires certain electric utilities to spend a specified percentage of annual operating revenues on energy conservation programs. Under current law, the electric utilities are required to spend at least 0.5% of their annual operating revenues on energy conservation programs. The bill requires instead that the electric utilities spend the following percentages of annual operating revenues on energy conservation programs: in fiscal year 1999–00, 0.375%; in fiscal year 2000–01, 0.25%; and in fiscal year 2001–02, 0.125% .

The bill imposes other requirements on the board's programs and the commitment to community programs, including the following:

1. The bill requires public utilities to allow electric customers to make contributions to the board's programs or the commitment to community programs.
2. For purposes of determining whether a municipal utility or cooperative has spent a required amount on a commitment to community programs, the bill allows a municipal utility or cooperative to receive credit for spending by its wholesale electric supplier on the supplier's own commitment to community programs.
3. The bill imposes certain reporting requirements on municipal utilities and cooperatives that spend access fees on commitment to community programs.

***Renewable energy resources***

Under this bill, a certain percentage of the electricity generated by a public utility or retail cooperative must be generated from renewable energy resources. The percentage is calculated on the basis of a public utility's or retail cooperative's "state peak load share", which is defined as the amount of electricity that the public utility or retail cooperative delivered to its customers or members at that time during the summer of 1996 that the maximum amount of electricity was delivered to all customers and members of all public utilities and retail cooperatives. The following percentages of a public utility's or retail cooperative's state peak load share must be generated from renewable resources: by December 31, 2000, 1%; by December 31, 2002, 1.5%; by December 31, 2004, 2%; by December 31, 2006, 2.5%; by December 31, 2008, 3%; and by December 31, 2010, 4%.

The bill allows a municipal public utility or retail cooperative to receive a credit for the amount of electricity generated from renewable resources by a wholesale supplier. In addition, the bill allows public utilities and retail cooperatives to

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purchase credits from other public utilities and retail cooperatives that generate electricity from renewable resources in excess of the required percentages of system peak load share. The bill also includes requirements for calculating capacity that is supplied from renewable resources.

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.** 15.07 (1) (a) 7. of the statutes is created to read:

2           15.07 (1) (a) 7. Members of the utility public benefits board appointed under  
3 s. 15.792 (1) (b) shall be appointed as provided in s. 15.792 (1) (b) without senate  
4 confirmation.

5           **SECTION 2.** 15.07 (1) (d) of the statutes is created to read:

6           15.07 (1) (d) Except as provided in s. 15.792 (1) (b) 5. or 8., no member appointed  
7 to the utility public benefits board may be an employe of a utility, as defined in s.  
8 196.374 (1).

9           **SECTION 3.** 15.792 of the statutes is created to read:

10          **15.792 Same; attached board. (1) UTILITY PUBLIC BENEFITS BOARD. (a)** In this  
11 subsection:

- 12           1. “Electric utility” has the meaning given in s. 196.96 (1) (g).
- 13           2. “Low-income household” has the meaning given in s. 196.96 (1) (m).
- 14           3. “Municipal utility” has the meaning given in s. 196.96 (1) (q).
- 15           4. “Renewable resource” has the meaning given in s. 196.378 (1) (g).
- 16           5. “Retail electric cooperative” has the meaning given in s. 196.96 (1) (t).
- 17           6. “Small business” has the meaning given in s. 16.75 (4) (c).
- 18           7. “Small business representative” means a director, manager, member, officer,  
19 owner or partner of a small business.

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1 (b) There is created a utility public benefits board that is attached to the  
2 department of administration under s. 15.03. The board shall consist of the following  
3 members appointed for 3-year terms:

4 1. One member appointed by the governor who is a member of a low-income  
5 household or a group or organization that represents low-income households.

6 2. One member appointed by the president of the senate who is a residential  
7 electric utility customer or who represents a residential electric utility customer  
8 advocacy group.

9 3. One member appointed by the governor who is a small business  
10 representative or who represents a small business advocacy group.

11 4. One member appointed by the president of the senate who represents an  
12 environmental or renewable resource advocacy group.

13 5. One member appointed by the president of the senate who represents one  
14 of the following:

15 a. A municipal utility or retail electric cooperative or municipal utility or retail  
16 electric cooperative advocacy group, if one-third or more of the municipal utilities  
17 and retail electric cooperatives doing business in this state notify the board under  
18 s. 196.96 (5) (b) 2. that they have elected to contribute to any of the programs  
19 established under s. 196.96 (2) (a) or (b) 1.

20 b. An electric utility or electric utility advocacy group, if fewer than one-third  
21 of the municipal utilities and retail electric cooperatives doing business in this state  
22 notify the board under s. 196.96 (5) (b) 2. that they have elected to contribute to any  
23 of the programs established under s. 196.96 (2) (a) or (b) 1.





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1           (1) LOW-INCOME ASSISTANCE, ENERGY CONSERVATION AND EFFICIENCY AND  
2 RENEWABLE RESOURCES. (q) *General program operations.* From the utility public  
3 benefits fund, the amounts in schedule for general program operations.

4           (r) *Low-income assistance grants.* From the utility public benefits fund, a sum  
5 sufficient for low-income assistance grants under s. 196.96 (2) (a).

6           (s) *Energy conservation and efficiency and renewable resource grants.* From the  
7 utility benefits fund, a sum sufficient for energy conservation and efficiency and  
8 renewable resource grants under s. 196.96 (2) (b) 1.

9           (t) *Compensation of intervenors.* From the utility public benefits fund, the  
10 amounts in the schedule for compensating persons who intervene in hearings under  
11 the rules promulgated under s. 196.96 (2) (c) 3.

12           **SECTION 6.** 25.17 (1) (xm) of the statutes is created to read:

13           25.17 (1) (xm) Utility public benefits fund (s. 25.96);

14           **SECTION 7.** 25.96 of the statutes is created to read:

15           **25.96 Utility public benefits fund.** There is established a separate  
16 nonlapsible trust fund designated as the utility public benefits fund, consisting of the  
17 access fees received under s. 196.96 (4) (a) and (5) (c) and (d) and contributions  
18 received under s. 196.96 (2) (c) 4. and (d) 2.

*of revenues received from public utilities  
under s. 196.374*

19           **SECTION 8.** 196.374 (1) of the statutes is amended to read:

20           196.374 (1) In this section "utility" means a class A gas or electric utility, as  
21 defined by the commission, but does not include a municipal electric company, as  
22 defined in s. 66.073 (3) (d), a municipal utility, as defined in s. 196.96 (1) (q), or a  
23 cooperative association organized under ch. 185.

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1           (1g) Every utility shall spend annually at least 0.5% each of the following  
2 percentages of its total annual operating revenues in each of the following fiscal  
3 years on programs designed to promote and accomplish energy conservation;

4           (1r) The commission may require a utility to spend annually for the purpose  
5 of promoting and accomplishing energy conservation, an amount which is more or  
6 less than 0.5% the percentage of its annual operating revenues specified in sub. (1g)  
7 if, after notice and hearing, the commission finds that the expenditure of such  
8 amount is in the public interest.

9           **SECTION 9.** 196.374 (1g) (a), (b) and (c) of the statutes are created to read:

10           196.374 (1g) (a) In fiscal year 1999–2000, 0.375%.

11           (b) In fiscal year 2000–01, 0.25%.

12           (c) In fiscal year 2001–02, 0.125%.

13           **SECTION 10.** 196.374 (2) of the statutes is amended to read:

14           196.374 (2) The commission may prescribe all or part of any program to be  
15 funded under sub. (1) (1g). The commission may require that a utility establish a  
16 program funded under sub. (1) (1g) which is applicable only to a group of consumers  
17 specified by the commission because the group has special energy conservation  
18 needs. Such a group may include, but is not limited to, low-income utility  
19 consumers, under guidelines established by the commission.

20           **SECTION 11.** 196.374 (4) of the statutes is created to read:

21           196.374 (4) This section does not apply after June 30, 2002.

22           **SECTION 12.** 196.378 of the statutes is created to read:

23           **196.378 Renewable resources. (1) DEFINITIONS.** In this section:

24           (a) “Biomass” means a resource that derives energy from wood or plant  
25 material or residue, biological waste, crops grown for use as a resource or landfill

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1 gases. "Biomass" does not include garbage, as defined in s. 289.01 (9), or industrial,  
2 commercial or household waste.

3 (b) "Conventional resource" means a resource that derives energy from coal, oil,  
4 nuclear power or natural gas, except for natural gas used in a fuel cell.

5 (c) "Electric provider" means an electric utility or retail electric cooperative.

6 (d) "Electric utility" means a public utility that generates, transmits, delivers  
7 or furnishes electricity, but does not include a municipal electric company, as defined  
8 in s. 66.073 (3) (d).

9 (e) "Excludable renewable capacity" means the portion of an electric provider's  
10 total renewable <sup>energy</sup> capacity that is supplied from renewable facilities that were placed  
11 in service before January 1, 1998, and that, before January 1, 1998, derived  
12 electricity from hydroelectric power or biomass, <sup>even if the output of such facilities is</sup>  
<sup>used to satisfy the requirements of</sup>

13 (f) "Nonsystem renewable capacity" means the amount of electricity, as  
14 calculated in accordance with rules promulgated by the commission under sub. (4)  
15 (b), that an electric provider is capable of delivering to its retail customers and that  
16 is supplied under executed wholesale purchase contracts by renewable facilities that  
17 are not owned or operated by the electric provider. "Nonsystem renewable capacity"  
18 does not include any electricity that is not used to satisfy the electric provider's retail  
19 load obligations.

20 (g) "Renewable resource" means any of the following:

21 1. A resource that derives electricity from any of the following:

22 a. A fuel cell that uses, as determined by the commission, a renewable fuel.

23 b. Tidal or wave action.

24 c. Solar thermal electric or photovoltaic energy.

25 d. Wind power.

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1 e. Geothermal technology.

2 f. Hydroelectric power. *with a capacity of less than 30 MW.*

3 g. Biomass.

4 2. Any other resource, except a conventional resource, that the commission  
5 designates as a renewable resource in rules promulgated under sub. (4) (a).

6 (h) "Renewable facility" means an installed and operational electric generating  
7 facility in which energy is derived from a renewable resource, but does not include  
8 a facility the installation or operation of which is required under the laws of another  
9 state.

10 (i) "Renewable resource credit" means a credit calculated in accordance with  
11 rules promulgated under sub. (3) (a).

12 (j) "Resource" means a source of electric power generation.

13 (k) "Retail electric cooperative" means a cooperative association organized  
14 under ch. 185 for the purpose of providing electricity at retail to its members only.

*Definition changed*

15 (L) "State peak load" means the maximum amount of electricity that was  
16 delivered to all customers or members of all electric providers in this state at any one  
17 time during the period from May 1, 1996, to September 15, 1996.

18 (m) "State peak load share" means the amount of electricity that was delivered  
19 to all customers or members of an electric provider by the electric provider at the time  
20 that the state peak load was delivered to all customers or members of all electric  
21 providers in this state.

*Deleted  
Capacity  
energy*

22 (n) "System renewable ~~capacity~~ <sup>energy</sup>" means the amount of electricity that an  
23 electric provider ~~is capable of delivering to its retail customers~~ <sup>sells to its retail customers</sup> and that is supplied  
24 by renewable facilities owned or operated by the electric provider. "System

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1 renewable capacity” does not include any electricity that is not used to satisfy the  
2 electric provider’s retail load obligations.

3 (o) “Total renewable capacity” means the sum of an electric provider’s system  
4 and nonsystem renewable capacity.

5 (2) RENEWABLE RESOURCE CAPACITY. <sup>sum</sup> (a) The sum of an electric provider’s total  
6 renewable capacity, as calculated under par. (b), and the amount of any renewable  
7 resource credit purchased by the electric provider under sub. (3) (a) shall be at least  
8 the following percentages of the electric provider’s state peak load share:

- 9 1. By December 31, 2000, 1%.
- 10 2. By December 31, 2002, 1.5%.
- 11 3. By December 31, 2004, 2%.
- 12 4. By December 31, 2006, 2.5%.
- 13 5. By December 31, 2008, 3%.
- 14 6. By December 31, 2010, 4%.

15 (b) An electric provider’s total renewable capacity shall be calculated in  
16 accordance with each of the following:

17 1. The amount of electricity supplied by a renewable facility is equal to the  
18 maximum amount of electricity that the facility is capable of generating as measured  
19 by the manufacturer’s rating or periodic testing of the facility.

20 2. Notwithstanding subd. 1., the amount of electricity supplied by a renewable  
21 facility in which biomass and conventional fuels are fired together is equal to the  
22 product of the amount specified in subd. 1. and the ratio of the British thermal unit  
23 content of the biomass fuels to the British thermal unit content of both the biomass  
24 and conventional resource fuels.

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1           3. Any excludable renewable capacity that exceeds 1% of an electric provider's  
2 state peak load share shall be deducted from the electric provider's total renewable  
3 capacity. (b) ~~(c)~~ new draft

4           (3) RENEWABLE RESOURCE CREDITS. (a) An electric provider that has a total  
5 renewable capacity that is more than the percentage of the electric provider's state  
6 peak load share specified in sub. (2) (a) 1. to 6. for the applicable year may sell to any  
7 other electric provider a renewable resource credit or a portion of a renewable  
8 resource credit. The commission shall promulgate rules that establish requirements  
9 for calculating the amount of a renewable resource credit. The rules shall provide  
10 that a renewable resource credit is equal to the amount by which an electric  
11 provider's total renewable capacity, as calculated under sub. (2) (b), exceeds the  
12 percentage of the electric provider's state peak load share specified in sub. (2) (a) 1.  
13 to 6.

14           (b) The commission may promulgate rules that establish requirements and  
15 procedures for a sale under par. (a).

16           (4) RULES. (a) The commission may promulgate rules that designate a  
17 resource, except for a conventional resource, as a renewable resource in addition to  
18 the resources specified in sub. (1) (g) 1.

19           (b) The commission shall promulgate rules that specify the method for  
20 calculating the amount of an electric provider's nonsystem renewable capacity.

21           (c) The commission shall promulgate rules that establish a statewide bidding  
22 system for arranging transactions for purchases of nonsystem renewable capacity.  
23 The commission may not require an electric provider to participate in the system  
24 established under rules promulgated under this paragraph.

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1 (5) PENALTY. Any person who violates sub. (2) (a) shall forfeit no less than  
 2 <sup>5,000</sup> \$10,000 nor more than <sup>500,000</sup> \$500,000. Forfeitures under this subsection shall be enforced  
 3 by action on behalf of the state by the attorney general. A court imposing a forfeiture  
 4 under this subsection shall consider all of the following in determining the amount  
 5 of the forfeiture:

6 (a) The appropriateness of the forfeiture to the volume of business of the electric  
 7 provider.

8 (b) The gravity of the violation.

9 (6) RECOMMENDATION TO LEGISLATURE. The commission may not recommend the  
 10 repeal of this section to the legislature unless the commission finds, after a hearing,  
 11 any of the following:

12 (a) That the market for renewable resources is competitive with the market for  
 13 conventional resources.

14 (b) That the repeal of this section is in the public interest.

*delete*

15 SECTION 13. 196.96 of the statutes is created to read:

16 196.96 Utility public benefits. (1) DEFINITIONS. In this section:

17 (a) "Board" means the utility public benefits board created in s. 15.792 (1) (b).

18 (b) "Community assistance program" means a program to provide assistance  
 19 to, or to promote the welfare of, a community that includes the customers or members  
 20 of a municipal utility or retail electric cooperative.

*delete*

21 (c) "Commitment to community program" means a program by a municipal  
 22 utility or retail electric cooperative for low-income assistance or a community  
 23 assistance, energy conservation or load management program by a municipal utility  
 24 or retail electric cooperative.



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1 (d) "Customer application of renewable resources" means the generation of  
2 electricity from renewable resources that takes place on the premises of a customer  
3 of an electric provider.

4 (e) <sup>Department</sup> "Division of housing" means the division of housing in the department of  
5 administration.

6 (f) "Electric provider" means an electric utility or retail electric cooperative. ← rld

7 (g) "Electric utility" has the meaning given in s. 196.378 (1) (d).

8 (h) "Energy conservation program" means a program for reducing the demand  
9 for electricity during any period.

10 (i) "Fiscal year" has the meaning given in s. 655.001 (6).

11 (j) "Load management program" means a program that allows an electric  
12 provider or its wholesale supplier to control electric usage by customers and reduce  
13 demand for electricity. | Delett

14 (k) "Local unit of government" means the governing body of any county, city,  
15 town, village or county utility district or the elected tribal governing body of a  
16 federally recognized American Indian tribe or band.

17 (L) "Low-income assistance" means assistance to low-income households for  
18 weatherization and other energy conservation services or payment of energy bills.

19 (m) "Low-income household" means any individual or group of individuals in  
20 this state who are living together as one economic unit and for whom residential  
21 electricity is customarily purchased in common or who make undesignated  
22 payments for electricity in the form of rent, and whose household income is not more  
23 than 150% of the poverty line as determined under 42 USC 9902 (2).

24 (n) "Low-income need" means the amount obtained by subtracting from the  
25 total low-income energy bills in a fiscal year the product of 2.2% of the estimated

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1 average annual income of low-income households in this state in that fiscal year  
2 multiplied by the estimated number of low-income households in this state in that  
3 fiscal year.

4 (o) “Low-income need percentage” means the percentage that results from  
5 dividing \$105,000,000 by the amount of low-income need in fiscal year 1998–99.

6 (p) “Low-income need target” means the product of the low-income need  
7 percentage multiplied by low-income need in a fiscal year.

8 (q) “Municipal utility” means an electric utility that is owned or operated  
9 wholly by a municipality.

10 (r) “Renewable resource” has the meaning given in s. 196.378 (1) (g).

11 (s) “Retail capacity” means the total amount of electricity that an electric  
12 provider is capable of delivering to its retail customers and that is supplied by electric  
13 generating facilities owned or operated by the electric provider or any other person.  
14 “Retail capacity” does not include any electricity that is not used to satisfy the electric  
15 provider’s retail load obligations.

16 (t) “Retail electric cooperative” means a cooperative association organized  
17 under ch. 185 for the purpose of providing electricity at retail to its members only.

18 (u) “Total low-income energy bills” means the total estimated amount that all  
19 low-income households are billed for residential electricity, natural gas and heating  
20 fuel in a fiscal year.

21 (v) “Wholesale electric cooperative” means a cooperative association organized  
22 under ch. 185 for the purpose of providing electricity at wholesale to its members  
23 only.

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1           (w) "Wholesale supply percentage" means the percentage of a municipal  
2 utility's or retail electric cooperative's retail capacity in a fiscal year that is supplied  
3 by a wholesale supplier.

4           (x) "Wholesale supplier" means a wholesale electric cooperative or a municipal  
5 electric company, as defined in s. 66.073 (3) (d), that supplies electricity at wholesale  
6 to a municipal utility or retail electric cooperative.

7           (2) BOARD DUTIES. The board shall do all of the following:

8           (a) *Low-income programs.* After holding a hearing, establish programs to be  
9 administered by the department of administration through the division of housing  
10 for awarding grants from the appropriation under s. 20.157 (1) (r) to provide  
11 low-income assistance. In each fiscal year, no less than the amount obtained by  
12 subtracting from \$50,000,000 the sum of all moneys received under 42 USC 6861 to  
13 6873 in a fiscal year shall be awarded under this paragraph in grants for  
14 weatherization and other energy conservation services.

15           (b) *Energy conservation and efficiency and renewable resource programs.* 1.  
16 Subject to subd. 2., after holding a hearing, establish programs for awarding grants  
17 from the appropriation under s. 20.157 (1) (s) for each of the following:

18           a. Proposals for providing energy conservation or efficiency services. In  
19 awarding grants under this subdivision, the board shall give priority to proposals  
20 directed at the sectors of energy conservation or efficiency markets that are least  
21 competitive and at promoting environmental protection, electric system reliability  
22 or rural economic development. In each fiscal year, 1.75% of the appropriation under  
23 s. 20.157 (1) (s) shall be awarded in grants for research and development proposals  
24 regarding the environmental impacts of the electric industry.

*board → department*

**BILL**

1           b. Proposals for encouraging the development or use of customer applications  
2 of renewable resources, including educating customers about renewable resources  
3 or encouraging uses of renewable resources by customers or encouraging research  
4 technology transfers. In each fiscal year, the board shall ensure that 4.5% of the  
5 appropriation under s. 20.157 (1) (s) shall be awarded in grants under this  
6 subdivision.

7           2. For each fiscal year after 2002–03, determine whether to continue,  
8 discontinue or reduce any of the programs established under subd. 1. and determine  
9 the total amount necessary to fund the programs that the board determines to  
10 continue or reduce under this subdivision. An amount determined under this  
11 paragraph may not exceed \$112,000,000.

12           (c) *Rules.* Promulgate rules establishing all of the following:

13           1. Eligibility requirements for low-income assistance under programs  
14 established under par. (a). The rules shall prohibit a person who receives  
15 low-income assistance from a municipal utility or retail electric cooperative under  
16 a program specified in sub. (5) (d) 2. b. or 3. a. from receiving low-income assistance  
17 under programs established under par. (a).

18           2. Requirements and procedures for applications for grants awarded under  
19 programs established under par. (a) or (b) 1.

20           2m. Criteria for the selection of proposals by the corporation specified in sub.  
21 (3) (b).

22           3. Requirements and procedures that allow an interested person, including a  
23 member of the public, to intervene in a hearing under par. (a) or (b) 1. (intro.) and  
24 allow the board to award compensation from the appropriation under s. 20.157 (1)

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1 (t) to a person that is not an electric provider for some or all of the reasonable costs  
2 of intervening in a hearing if the board finds any of the following:

3 a. That the intervention is necessary to provide an adequate presentation of a  
4 significant position in which the person has a substantial interest and that an  
5 adequate presentation would not be possible without compensation.

6 b. That the intervention has provided a significant contribution to the  
7 establishment of a program and has caused a significant financial hardship to the  
8 person.

9 4. Requirements for electric utilities to allow customers to include voluntary  
10 contributions to assist in funding a commitment to community program or a program  
11 established under par. (a) or (b) 1. with bill payments for electric service. The rules  
12 may require an electric utility to provide a space on an electric bill in which a  
13 customer may indicate the amount of a voluntary contribution and the customer's  
14 preference regarding whether a contribution should be used for a program  
15 established under par. (a) or (b) 1. a. or b. The rules shall establish requirements and  
16 procedures for electric utilities to pay to the board any voluntary contributions  
17 included with bill payments and to report to the board customer preferences  
18 regarding use of the contributions. The board shall deposit all contributions received  
19 under this paragraph in the utility public benefits fund.

20 5. A method for estimating total low-income energy bills, average annual  
21 income of low-income households and the number of low-income households in a  
22 fiscal year for the purpose of determining the amount of low-income need in the fiscal  
23 year.

24 (d) *Other duties.* 1. For each fiscal year after 1998-99, determine the  
25 low-income need target for that fiscal year.

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1           2. Encourage customers to make voluntary contributions to assist in funding  
2 the programs established under pars. (a) and (b) 1. The board shall deposit all  
3 contributions received under this paragraph in the utility public benefits fund.

4           3. Deposit all moneys received under sub. (4) (a) or (5) (c) or (d) in the utility  
5 public benefits fund.

6           **(2m) STRATEGIC ENERGY ASSESSMENT CONSISTENCY.** The board may award grants  
7 under sub. (2) (b) 1. only for proposals that are consistent with strategic energy  
8 assessments prepared by the commission under s. 196.491 (2).

9           **(3) CONTRACTS.** (a) The division of housing shall, on the basis of competitive  
10 bids, contract with community action agencies described in s. 46.30 (2) (a) 1.,  
11 nonstock, nonprofit corporations organized under ch. 181 or local units of  
12 government to provide services under the programs established under sub. (2) (a).

13           (b) The board shall, on the basis of competitive bids, contract with a nonstock,  
14 nonprofit corporation organized under ch. 181 to administer the programs  
15 established under sub. (2) (b) 1., including soliciting proposals, processing grant  
16 applications, selecting, based on criteria specified in rules promulgated under sub.  
17 (2) (c) 2m., proposals for the board to make awards and distributing grants to  
18 recipients.

19           **(4) ELECTRIC UTILITIES.** (a) *Requirement to charge access fees.* Each electric  
20 utility, except for a municipal utility, shall charge each customer an access fee in an  
21 amount established in rules promulgated by the board under par. (b). An electric  
22 utility, except for a municipal utility, shall collect and pay the fees to the board in  
23 accordance with the rules promulgated under par. (b).

24           (b) *Rules.* The board shall promulgate rules that establish the amount of an  
25 access fee that an electric utility shall charge a customer under par. (a) and

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1 requirements and procedures for an electric utility to collect and pay the fees to the  
2 board. Rules promulgated under this paragraph may allow an electric utility to  
3 charge different fees to different classes of customers, but no class of customers may  
4 be required to pay, in the aggregate, a disproportionate amount in comparison to any  
5 other class of customers. The rules shall prohibit an electric utility from itemizing  
6 an access fee on a customer's bill unless all other nonfuel costs are also itemized on  
7 the bill.

8 (c) *Amount of access fees.* A fee established in rules promulgated under par. (b)  
9 shall satisfy each of the following:

10 1. 'Low-income funding.' In fiscal year 1999–2000, a portion of the fee shall  
11 be an amount that is sufficient for the board to receive in access fees the amount  
12 obtained by subtracting from \$105,000,000 the sum of all moneys received under 42  
13 USC 6861 to 6873 and 42 USC 8621 to 8629 for that fiscal year and, as estimated by  
14 the board, and 50% of the access fees charged by municipal utilities and retail electric  
15 cooperatives under sub. (5) (a) for that fiscal year. In each fiscal year after fiscal year  
16 1999–2000, the portion of the fee specified in this subdivision shall be an amount that  
17 is sufficient for the board to receive from all electric utilities the amount obtained by  
18 subtracting from the amount of the low-income need target determined by the board  
19 for that fiscal year under sub. (2) (d) 1. the sum of all moneys received under 42 USC  
20 6861 to 6873 and 42 USC 8621 to 8629 for that fiscal year and 50% of the access fees  
21 charged by municipal utilities and retail electric cooperatives under sub. (5) (a) for  
22 that fiscal year.

23 2. 'Energy conservation and efficiency and renewable resource funding.' For  
24 fiscal year 1999–2000, a portion of the access fee shall be in an amount that is  
25 sufficient for the board to receive in access fees the amount obtained by subtracting

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1 from \$28,000,000 20% of the access fees charged by municipal utilities and retail  
2 electric cooperatives under sub. (5) (a) for that fiscal year. For fiscal year 2000–01,  
3 a portion of the access fee shall be in an amount that is sufficient for the board to  
4 receive in access fees the amount obtained by subtracting from \$56,000,000 20% of  
5 the access fees charged by municipal utilities and retail electric cooperatives under  
6 sub. (5) (a) for that fiscal year. For fiscal year 2001–02, a portion of the access fee shall  
7 be in an amount that is sufficient for the board to receive in access fees the amount  
8 obtained by subtracting from \$84,000,000 20% of the access fees charged by  
9 municipal utilities and retail electric cooperatives under sub. (5) (a) for that fiscal  
10 year. For fiscal year 2002–03, a portion of the access fee shall be in an amount that  
11 is sufficient for the board to receive in access fees the amount obtained by subtracting  
12 from \$112,000,000 20% of the access fees charged by municipal utilities and retail  
13 electric cooperatives under sub. (5) (a) for that fiscal year. For each fiscal year after  
14 2002–03, if the board determines under sub. (2) (b) 2. to discontinue or reduce a  
15 program established under sub. (2) (b) 1., the portion of the fee specified in this  
16 subdivision shall be an amount that is sufficient for the board to receive from all  
17 electric utilities the amount obtained by subtracting from the amount of funding  
18 determined by the board under sub. (2) (b) 2. 20% of the access fees charged by  
19 municipal utilities and retail electric cooperatives under sub. (5) (a) for that fiscal  
20 year.

21 3. 'Electric bill increases.' For the period beginning on the effective date of this  
22 subdivision .... [revisor inserts date], and ending on June 30, 2008, the total increase  
23 in a customer's electric bills that is based on the requirement to pay access fees, may  
24 not exceed 3% of the total of every other charge for which the customer is billed for  
25 that period.



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1           **(5) MUNICIPAL UTILITIES AND RETAIL ELECTRIC COOPERATIVES.** (a) *Requirement to*  
2 *charge access fees.* Each retail electric cooperative and municipal utility shall charge  
3 a monthly access fee to each customer or member in amount that is sufficient for the  
4 retail electric cooperative or municipal utility to collect an annual average of \$13.16  
5 per meter. A retail electric cooperative or municipal utility may determine the  
6 amount that a particular class of customers or members is required to pay under this  
7 paragraph and may charge different fees to different classes of customers or  
8 members.

9           (am) *Access fee restriction.* Notwithstanding par. (a), for the period beginning  
10 on the effective date of this paragraph .... [revisor inserts date], and ending on June  
11 30, 2008, the total increase in a customer's or member's electric bills that is based  
12 on the requirement to pay access fees may not exceed 3% of the total of every other  
13 charge for which the member or customer is billed for that period.

14           (b) *Election to contribute to board programs.* 1. No later than the first day of  
15 the 12th month beginning after the effective date of this subdivision .... [revisor  
16 inserts date], each municipal utility or retail electric cooperative shall notify the  
17 board whether it has elected to contribute to the programs established under sub. (2)  
18 (a) or (b) 1. for a 3-year period.

19           2. No later than every 3rd year after the date specified in subd. 1., each  
20 municipal utility or retail electric cooperative shall notify the board whether it has  
21 elected to contribute to the programs established under sub. (2) (a) or (b) 1. for a  
22 3-year period.

23           (c) *Full contribution.* If a municipal utility or retail electric cooperative elects  
24 under par. (b) 1. or 2. to contribute to the programs established both under sub. (2)  
25 (a) and under sub. (2) (b) 1., it shall pay, except as provided in par. (dm), 100% of the

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1 access fees that it charges under par. (a) to the board in each fiscal year of the 3-year  
2 period for which it has made the election.

3 (d) *Partial contributions and commitment to community spending.* A  
4 municipal utility or retail electric cooperative not specified in par. (c) shall do one of  
5 the following:

6 1. If the municipal utility or retail electric cooperative elects to contribute only  
7 to the programs established under sub. (2) (a), the municipal utility or retail electric  
8 cooperative shall, in each fiscal year of the 3-year period for which it elects to  
9 contribute under par. (b) 1. or 2., do all of the following:

10 a. Except as provided in par. (dm), pay no less than 50% of the access fees that  
11 it charges under par. (a) to the board.

12 b. Spend no less than 20% of the access fees that it charges under par. (a) on  
13 energy conservation programs. No more than 10% of the amount that a municipal  
14 utility or retail electric cooperative spends on energy conservation programs under  
15 this subd. 1. b. may be spent on load management programs.

16 c. Spend any remaining amounts on community assistance or load  
17 management programs.

18 2. If the municipal utility or retail electric cooperative elects to contribute only  
19 to the programs established under sub. (2) (b) 1., the municipal utility or retail  
20 electric cooperative shall, in each fiscal year of the 3-year period for which it elects  
21 to contribute under par. (b) 1. or 2., do all of the following:

22 a. Except as provided in par. (dm), pay 20% of the access fees that it charges  
23 under par. (a) to the board.

24 b. Spend no less than 50% of the access fees that it charges under par. (a) on  
25 programs for low-income assistance.

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1           c. Spend any remaining amounts on community assistance or load  
2 management programs.

3           3. If the municipal utility or retail electric cooperative elects not to contribute  
4 to any of the programs established under sub. (2) (a) or (b) 1., the municipal utility  
5 or retail electric cooperative shall, in each fiscal year of the 3-year period for which  
6 it elects not to contribute under par. (b) 1. or 2., do all of the following:

7           a. Spend no less than 50% of the access fees that it charges under par. (a) on  
8 programs for low-income assistance.

9           b. Spend no less than 20% of the access fees that it charges under par. (a) on  
10 energy conservation programs. No more than 10% of the amount that a municipal  
11 utility or retail electric cooperative spends on energy conservation programs under  
12 this subd. 3. b. may be spent on load management programs.

13           c. Spend any remaining amounts on community assistance or load  
14 management programs.

15           (dm) *Wholesale supplier compensation.* A municipal utility or retail electric  
16 cooperative may use no more than 10% of the access fee that it charges under par.  
17 (a) to compensate a wholesale supplier for the difference between the market price  
18 of electricity that the wholesale supplier generates from renewable resources, as  
19 defined in s. 196.378 (1) (g), constructed after December 31, 1997, and the market  
20 price of electricity generated from conventional resources, as defined in s. 196.378  
21 (1) (b). A municipal utility or retail electric cooperative may deduct from the access  
22 fees that it is required to pay to the board under par. (c) or (d) 1. a. or 2. a. the amount  
23 that it uses to compensate a wholesale supplier under this paragraph.

24           (e) *Wholesale supplier credit.* If a wholesale supplier has established a program  
25 for low-income assistance, community assistance or an energy conservation or load

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1 management program, a municipal utility or retail electric cooperative that is a  
2 customer of the wholesale supplier may do any of the following:

3 1. Include an amount equal to the product of the municipal utility's or retail  
4 electric cooperative's wholesale supply percentage and the amount that the  
5 wholesale supplier has spent on low-income assistance in a fiscal year in calculating  
6 the amount that the municipal utility or retail electric cooperative has spent on  
7 low-income assistance in that fiscal year under par. (d) 2. b. or 3. a.

8 2. Include an amount equal to the product of the municipal utility's or retail  
9 electric cooperative's wholesale supply percentage and the amount that the  
10 wholesale supplier has spent on energy conservation programs or customer  
11 applications of renewable resources in a fiscal year in calculating the amount that  
12 the municipal utility or retail electric cooperative has spent on energy conservation  
13 programs under par. (d) 1. b. or 3. b.

14 (f) *Joint programs.* Municipal utilities or retail electric cooperatives may  
15 establish joint commitment to community programs, except that each municipal  
16 utility or retail electric cooperative that participates in a joint program is required  
17 to comply with the spending requirements under par. (d).

18 (g) *Reports.* 1. For each fiscal year, each municipal utility and retail electric  
19 cooperative that does not pay 100% of the access fee that it charges under par. (a) to  
20 the board under par. (c) shall file a report with the secretary of state that describes  
21 each of the following:

22 a. An accounting of access fees charged to customers or members under par. (a)  
23 in the fiscal year and expenditures on commitment to community programs under  
24 par. (d), including any amounts included in the municipal utility's or retail electric  
25 cooperative's calculations under par. (e).

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1           b. A description of commitment to community programs established by the  
2 municipal utility or retail electric cooperative in the fiscal year.

3           2. The secretary of state shall maintain reports filed under subd. 1. for at least  
4 6 years.

5           **SECTION 14. Nonstatutory provisions.**

6           (1) INITIAL APPOINTMENTS TO UTILITY PUBLIC BENEFITS BOARD. Notwithstanding  
7 section 15.792 (1) (b) (intro.) of the statutes, as created by this act:

8           (a) The following initial members of the utility public benefits board shall be  
9 appointed by the first day of the 3rd month beginning after the effective date of this  
10 paragraph for the following terms:

11           1. The members specified in section 15.792 (1) (b) 3., 4. and 9. of the statutes,  
12 as created by this act, for terms expiring on July 1, 2000.

13           2. The members specified in section 15.792 (1) (b) 1., 2., 8. and 10. of the  
14 statutes, as created by this act, for terms expiring on July 1, 2001.

15           3. The members specified in section 15.792 (1) (b) 6., 7. and 11. of the statutes,  
16 as created by this act, for terms expiring on July 1, 2002.

17           (b) The public utilities benefit board shall include a member appointed by the  
18 president of the senate without senate confirmation who represents one of the  
19 following:

20           1. A municipal utility or retail electric cooperative or municipal utility or retail  
21 electric cooperative advocacy group, if one-third or more of the municipal utilities  
22 and retail electric cooperatives doing business in this state notify the board under  
23 section 196.96 (5) (b) 1. of the statutes, as created by this act, that they have elected  
24 to contribute to any of the programs established under section 196.96 (2) (a) or (b)  
25 1. of the statutes, as created by this act.

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1           2. An electric utility or electric utility advocacy group, if fewer than one-third  
2 of the municipal utilities and retail electric cooperatives doing business in this state  
3 notify the board under section 196.96 (5) (b) 1. of the statutes, as created by this act,  
4 that they have elected to contribute to any of the programs established under section  
5 196.96 (2) (a) or (b) 1. of the statutes, as created by this act. Notwithstanding section  
6 15.07 (1) (d) of the statutes, as created by this act, the member appointed under this  
7 subdivision may be an employe of a utility, as defined in section 196.374 (1) of the  
8 statutes.

9           (c) The member of the utility public benefits board appointed under paragraph  
10 (b) shall serve on the board for a term that expires when a member is appointed under  
11 section 15.792 (1) (b) 5. of the statutes, as created by this act.

12           (2) PUBLIC SERVICE COMMISSION RULES.

13           (a) Using the procedure under section 227.24 of the statutes, the public service  
14 commission shall promulgate the rules required under section 196.378 (3) (a) and (4)  
15 (b) and (c) of the statutes, as created by this act, for the period before the effective date  
16 of the permanent rules promulgated under that section, but not to exceed the period  
17 authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding  
18 section 227.24 (1) and (3) of the statutes, the commission is not required to make a  
19 finding of emergency.

20           (b) The public service commission shall submit in proposed form the rules  
21 required under section 196.378 (3) (a) and (4) (b) and (c) of the statutes, as created  
22 by this act, to the legislative council staff under section 227.15 (1) of the statutes no  
23 later than the first day of the 6th month beginning after the effective date of this  
24 paragraph.

25           (3) UTILITY PUBLIC BENEFITS BOARD RULES.

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1           (a) Using the procedure under section 227.24 of the statutes, the utility public  
2 benefits board shall promulgate the rules required under section 196.96 (2) (c) and  
3 (4) (b) of the statutes, as created by this act, for the period before the effective date  
4 of the permanent rules promulgated under that section, but not to exceed the period  
5 authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding  
6 section 227.24 (1) and (3) of the statutes, the board is not required to make a finding  
7 of emergency.

8           (b) The utility public benefits board shall submit in proposed form the rules  
9 required under section 196.96 (2) (c) and (4) (b) of the statutes, as created by this act,  
10 to the legislative council staff under section 227.15 (1) of the statutes no later than  
11 the first day of the 6th month beginning after the effective date of this paragraph.

12

(END)