

1999 SENATE BILL 506

March 23, 2000 – Introduced by Senators WIRCH and PLACHE, cosponsored by Representatives LADWIG, J. LEHMAN, STEINBRINK and TURNER. Referred to Committee on Health, Utilities, Veterans and Military Affairs.

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

Analysis by the Legislative Reference Bureau

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

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

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Under current law, the property of a qualified wholesale electric company located in a municipality is excluded from the calculation of the municipality's shared revenue payments from the state. Under the bill, the property of a wholesale merchant plant located in a municipality is also excluded from the calculation of the municipality's shared revenue payments.

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

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

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

7 76.28 (2) (a) There Except as provided in s. 76.29, there is imposed on every
8 light, heat and power company an annual license fee to be assessed by the
9 department on or before May 1, 1985, and every May 1 thereafter measured by the
10 gross revenues of the preceding year, excluding gross revenues under s. 76.29, at the
11 rates and by the methods set forth under pars. (b) to (d). The fee shall become
12 delinquent if not paid when due and when delinquent shall be subject to interest at
13 the rate of 1.5% per month until paid. Payment in full of the May 1 assessment
14 constitutes a license to carry on business for the 12-month period commencing on the
15 preceding January 1.

16 **SECTION 3.** 76.29 of the statutes is created to read:

17 **76.29 License fee for selling electricity at wholesale. (1) DEFINITIONS.**

18 In this section:

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

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

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

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

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

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

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

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

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

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

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

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

9 **SECTION 5.** 79.04 (1) (a) of the statutes is amended to read:

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

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

9 **SECTION 6.** 79.04 (1) (c) 2. of the statutes is amended to read:

10 79.04 (1) (c) 2. If a production plant is located in more than one municipality,
11 the total payment under subd. 1. shall be apportioned according to the amounts
12 shown on the preceding December 31 for the production plant in the account
13 described in par. (a) for “production plant exclusive of land” within each municipality
14 for all public utilities except qualified wholesale electric companies, as defined in s.
15 76.28 (1) (gm), and except wholesale merchant plants, as defined in s. 196.491 (1) (w).
16 or according to the value as reported to the department of revenue under par. (a) of
17 the production plant within each municipality for each qualified wholesale electric
18 company. The payment to each municipality under this subdivision shall be no less
19 than \$15,000 annually.

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

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

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

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

3 (END)