



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

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March 29, 2000

MEMORANDUM

To: Senator Wirch

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

Subject: SB 506/AB 927

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

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

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

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

1999 DRAFTING REQUEST

Bill

Received: **02/04/2000**

Received By: **jkreye**

Wanted: **Soon**

Identical to LRB:

For: **Robert Wirch (608) 267-8979**

By/Representing: **Amber**

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

Drafter: **jkreye**

May Contact:

Alt. Drafters:

Subject: **Tax - utilities**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Wholesale merchant plant

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 02/04/2000	csicilia 02/04/2000		_____			S&L
/1	jkreye 03/16/2000	csicilia 03/16/2000	jfrantze 02/07/2000	_____	lrb_docadmin 02/07/2000	lrb_docadminS&L 02/07/2000	
/2			martykr 03/16/2000	_____	lrb_docadmin 03/16/2000	lrb_docadmin 03/16/2000	

FE Sent For: (02/07/2000, 03/16/2000.)
("1") ("2")

<END>

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/1	jkreye 03/16/2000	csicilia 03/16/2000	jfrantze 02/07/2000	_____	lrb_docadmin 02/07/2000	lrb_docadminS&L 02/07/2000	
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/?	jkreye 02/04/2000	csicilia 02/04/2000		_____			S&L
/1		1/2 eys 3/16 oo	jfrantze 02/07/2000 Jm 3/16	_____	lrb_docadmin 02/07/2000	lrb_docadmin 02/07/2000	

FE Sent For: 02/07/2000.

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1?	jkreye	1 cgs 2/4 00	2/2/97	2/6/97 2/7/97			

FE Sent For:

<END>

Friday 2-4-2000

3984 - wholesale merchant plants, except include
in shared revenue
Amber - Sen. Wild.

will box over
materials

↓
Eoley & Gardner

↓
2 alt

wants done & jacketed as
soon as possible

↓
whatever works
best

amend 79.04 (1) a
(1) (c) 2
(2) (a)

AIT #1

and wholesale merchant plants, as defined in s. 76.28(1)(k),

JK

VENUE SHARING

97-98 Wis. Stats. 2012

vided in subd. 3. b., the full valuation of ipality does not exceed \$40,000,000. of the property in the municipality may a land area of the municipality exceeds

If the full valuation of the property in an eligible municipality exceeds \$40,000,000 and the land area of the eligible municipality exceeds 54 square miles, full valuation of the property in the eligible municipality shall be considered to be \$40,000,000 under pars. (c) 1., (d) 1. and (e) 1.

(c) Payment. Subject to the total distribution amount limits in par. (f), the minimum payment under par. (d) and the maximum payment under par. (e), each eligible municipality is entitled to venue from the appropriation under s. 20.835 (1) (b), in o its shared revenue entitlements under sub. (1), calcu llows:

vide the full valuation of the property in the municipality 0,000.

ultiply the result under subd. 1. by \$55.

stract the amount under subd. 2. from \$55.

ultiply the municipality's population by the amount d. 3. or by \$10, whichever is greater.

imum payment. The minimum payment that an eligible ity may receive under this subsection is the greater of amount calculated as follows:

vide the full valuation of the property in the municipality 0,000.

ultiply the result under subd. 1. by \$720.

stract the amount under subd. 2. from \$18,000.

imum payment. The maximum payment that an eligi pality may receive under this subsection is the greater or an amount calculated as follows:

vide the full valuation of the property in the municipality 000.

ultiply the result under subd. 1. by \$1,750.

stract the amount under subd. 2. from \$45,000.

tribution amount. If the total amounts calculated under (e) exceed the total amount to be distributed under this

the amount paid to each eligible municipality shall be orated basis. The total amount to be distributed under

tribution from s. 20.835 (1) (b) is \$10,000,000 in 1996 and thereafter.

(4) In 1991, the total amount to be distributed under ss. 79.03, 79.04 and 79.06 from s. 20.835 (1) (d) is \$869,000,000. In 1992, the total amount to be distributed under ss. 79.03, 79.04 and 79.06 from s. 20.835 (1) (d) is \$885,961,300. In 1993, the total amount to be distributed under ss. 79.03, 79.04 and 79.06 from s. 20.835 (1) (d) is \$903,680,500. In 1994, the total amounts to be distributed under this section and ss. 79.04 and 79.06 from s. 20.835 (1) (d) are \$746,547,500 to municipalities and \$168,981,800 to counties. In 1995 and subsequent years, the total amounts to be distributed under ss. 79.03, 79.04 and 79.06 from s. 20.835 (1) (d) are \$761,478,000 to municipalities and \$168,981,800 to counties.

(4b) The total amount specified in sub. (4) for any year shall be reduced by the total of all reductions in shared revenue payments for that year under s. 66.77 (4).

History: 1971 c. 125, 215; 1973 c. 90; 1975 c. 39; 1977 c. 29, 203, 413; 1979 c. 1; 1979 c. 34 ss. 903a to 905m, 2102 (46) (d); 1979 c. 221; 1981 c. 20, 93, 314, 317; 1983 a. 27, 189; 1985 a. 29, 120; 1987 a. 27, 399; 1989 a. 31, 56, 336; 1991 a. 39, 269; 1993 a. 16, 437, 490; 1995 a. 27; 1997 a. 27, 164, 237.

See note to s. 16.50, citing Milwaukee v. Lindner, 98 W (2d) 624, 297 NW (2d) 828 (1980).

79.04 Public utility distribution. (1) Annually the department of administration, upon certification by the department of revenue, shall distribute to a municipality having within its boundaries a production plant or a general structure, including production plants and general structures under construction, used by a light, heat or power company assessed under s. 76.28 (2)

except property described in s. 66.069 (2) unless the production plant is owned or operated by a local governmental unit located outside of the municipality, or by an electric cooperative assessed under ss. 76.07 and 76.48, respectively, or by a municipal electric company under s. 66.073 the amount determined as follows:

(a) An amount from the shared revenue account determined by multiplying by 3 mills in the case of a town, and 6 mills in the case of a city or village, the first \$125,000,000 of the amount shown in the account, plus leased property, of each public utility except qualified wholesale electric companies, as defined in s. 76.28 (1) (gm) on December 31 of the preceding year for either "production plant, exclusive of land" and "general structures", or "work in progress" for production plants and general structures under construction, in the case of light, heat and power companies, electric cooperatives or municipal electric companies, for all property within a municipality in accordance with the system of accounts established by the public service commission or rural electrification administration, less depreciation thereon as determined by the department of revenue and less the value of treatment plant and pollution abatement equipment, as defined under s. 70.11 (21) (a), as determined by the department of revenue plus an amount from the shared revenue account determined by multiplying by 3 mills in the case of a town, and 6 mills in the case of a city or village, of the first \$125,000,000 of the total original cost of production plant, general structures and work-in-progress less depreciation, land and approved waste treatment facilities of each qualified wholesale electric company, as defined in s. 76.28 (1) (gm), as reported to the department of revenue of all property within the municipality. The total of amounts, as depreciated, from the accounts of all public utilities for the same production plant is also limited to not more than \$125,000,000. The amount distributable to a municipality in any year shall not exceed \$300 times the population of the municipality.

(b) 1. Beginning with the distribution under this subsection in 1991, the amount determined under par. (a) to value property used by a light, heat or power company in a municipality may not be less than the amount determined to value the property for the distribution to the municipality under this subsection in 1990, subject to subds. 2., 3. and 4.

2. When a light, heat or power company no longer uses property described under par. (a) as production plant or general structure in a municipality, the amount established under subd. 1. shall be reduced by the proportion that the property that is no longer used bears to the total value of all property described in par. (a) in the municipality. The proportion shall be determined according to the proportional value of the property when the light, heat or power company stops using the property.

3. The amount of a distribution under this paragraph, as affected by subd. 1., may not exceed the per capita amount established under par. (a).

4. If property of a light, heat or power company described under par. (a) is included in the value of property for the distribution to the municipality under this subsection in 1990 and is located in territory annexed by another municipality after December 31, 1989, the amount established under subd. 1. shall be reduced annually by one-fifth of the value of the property located in the annexed territory for 5 consecutive years, beginning with the distribution in 1994 or with the first distribution after the year in which the annexation occurs, whichever is later.

(c) 1. The payment for any municipality in which a production plant is located, which the public service commission certifies to the department of revenue will produce a nominal rated capacity of 200 megawatts or more, shall be no less than \$75,000 annually, except that the amount distributable to a municipality in any year shall not exceed the per capita limit specified in par. (a). Payments under this paragraph may be extended to decommissioned production plants as provided in subd. 3.

2. If a production plant is located in more than one municipal-

Date	2-1-00	# of pages	4
From	Amber		
Co.	Sen. Wirch		
Phone #	267-8979		
Fax #			
Post-it* Fax Note	7671		
To	Joe Krue		
Co/Dept.	LRP		
Phone #			
Fax #	264-6948		

2013 97-98 Wis. Stats.

and wholesale merchant plants, as defined in
s. 76.28(1)(k),

STATE REVENUE SHARING 79.05

ing to the amounts shown on the preceding December 31 for the production plant in the account described in par. (a) for "production plant exclusive of land" within each municipality for all public utilities except qualified wholesale electric companies, as defined in s. 76.28 (1) (gm), or according to the value as reported to the department of revenue under par. (a) of the production plant within each municipality for each qualified wholesale electric company. The payment to each municipality under this subdivision shall be no less than \$15,000 annually.

3. If a production plant with a nominal rated capacity of 200 megawatts or more is decommissioned or becomes nonutility property, the \$75,000 minimum guaranteed payment under subd. 1. shall continue but diminish by \$7,500 annually, except that the minimum guaranteed payment under this subdivision shall cease in the year following the first year in which the property becomes taxable by the taxation district. In this subdivision, "nonutility property" has the meaning set forth in the uniform system of accounts established by the public service commission.

(2) (a) Annually, the department of administration, upon certification by the department of revenue, shall distribute from the shared revenue account to any county having within its boundaries a production plant or a general structure, including production plants and general structures under construction, used by a light, heat or power company assessed under s. 76.28 (2), except property described in s. 66.069 (2) unless the production plant is owned or operated by a local governmental unit that is located outside of the municipality in which the production plant is located, or by an electric cooperative assessed under ss. 76.07 and 76.48, respectively, or by a municipal electric company under s. 66.073 an amount determined by multiplying by 6 mills in the case of property in a town and by 3 mills in the case of property in a city or village the first \$125,000,000 of the amount shown in the account, plus leased property, of each public utility except qualified wholesale electric companies, as defined in s. 76.28 (1) (gm), on December 31 of the preceding year for either "production plant, exclusive of land" and "general structures", or "work in progress" for production plants and general structures under construction, in the case of light, heat and power companies, electric cooperatives or municipal electric companies, for all property within the municipality in accordance with the system of accounts established by the public service commission or rural electrification administration, less depreciation thereon as determined by the department of revenue and less the value of treatment plant and pollution abatement equipment, as defined under s. 70.11 (21) (a), as determined by the department of revenue plus an amount from the shared revenue account determined by multiplying by 6 mills in the case of property in a town, and 3 mills in the case of property in a city or village, of the total original cost of production plant, general structures and work-in-progress less depreciation, land and approved waste treatment facilities of each qualified wholesale electric company, as defined in s. 76.28 (1) (gm), as reported to the department of revenue of all property within the municipality. The total of amounts, as depreciated, from the accounts of all public utilities for the same production plant is also limited to not more than \$125,000,000. The amount distributable to a county in any year shall not exceed \$100 times the population of the county.

(am) 1. Beginning with the distribution under this subsection in 1991, the amount determined under par. (a) to value property used by a light, heat or power company in a county may not be less than the amount determined to value the property for the distribution to the county under this subsection in 1990, subject to subds. 2. and 3.

2. When a light, heat or power company no longer uses property described under par. (a) as production plant or general structure in a county, the amount established under subd. 1. shall be reduced by the proportion that the property that is no longer used bears to the total value of all property described in par. (a) in the county. The proportion shall be determined according to the pro-

portional value of the property when the light, heat or power company stops using the property.

3. The amount of a distribution under this paragraph, as affected by subd. 1., may not exceed the per capita amount established under par. (a).

(b) The payment under par. (a) for any county in which a production plant is located, which the public service commission certifies to the department of revenue will produce a nominal rated capacity of 200 megawatts or more, shall be not less than \$75,000 annually, except that the amount distributable to a county in any year shall not exceed the per capita limit specified in par. (a).

(4) (a) Annually, in addition to the amount distributed under sub. (1), the department of administration shall distribute \$50,000 to a municipality if spent nuclear fuel is stored within the municipality on December 31 of the preceding year. If a spent nuclear fuel storage facility is located within one mile of a municipality, that municipality shall receive \$10,000 annually and the municipality where that storage facility is located shall receive \$40,000 annually.

(b) Annually, in addition to the amount distributed under sub. (2), the department of administration shall distribute \$50,000 to a county if spent nuclear fuel is stored within the county on December 31 of the preceding year. If a spent nuclear fuel storage facility is located at a production plant located in more than one county, the payment shall be apportioned according to the formula under sub. (1) (c) 2., except that the formula, as it applies to municipalities in that subdivision, applies to counties in this paragraph. The payment under this paragraph may not be less than \$10,000 annually.

History: 1971 c. 125, 215; 1973 c. 90 ss. 387, 391g; 1973 c. 243 s. 82; 1975 c. 39, 224; 1977 c. 29, 418; 1979 c. 34; 1983 a. 27; 1985 a. 29, 39; 1987 a. 27; 1989 a. 31; 1993 a. 16, 307; 1995 a. 27.

79.05 Expenditure restraint program. (1) In this section:

(a) "Full value" means the value determined under s. 70.57 including the value of tax increments under s. 66.46.

(am) "Inflation factor" means a percentage equal to the average annual percentage change in the U.S. consumer price index for all urban consumers, U.S. city average, as determined by the U.S. department of labor, for the 12 months ending on September 30 of the year before the statement under s. 79.015.

(b) "Municipal budget" means the municipality's general fund.

(c) "Property tax levy rate" means the amount determined as follows:

1. Subtract the tax increment under s. 66.46 from the total property tax levy.

2. Subtract the tax incremental value under s. 66.46 from the full value.

3. Divide the amount under subd. 1. by the amount under subd. 2.

(d) "Valuation factor" means a percentage equal to 60% of the percentage change in the municipality's equalized value due to new construction less improvements removed between the year before the statement under s. 79.015 and the previous year, but not less than zero nor greater than 2.

(2) A municipality is eligible for a payment under sub. (3) if it fulfills all of the following requirements:

(a) Its property tax levy rate established during the year before the statement under s. 79.015 is greater than 5 mills.

(c) Its municipal budget, exclusive of principal and interest on long-term debt, for the year of the statement under s. 79.015 increased over its municipal budget as adjusted under sub. (6), exclusive of principal and interest on long-term debt, for the year before that year by less than the sum of the inflation factor and the valuation factor, rounded to the nearest 0.10%.

ALT #2

79.03 STATE REVENUE SHARING

3. a. Except as provided in subd. 3. b., the full valuation of the property in the municipality does not exceed \$40,000,000.

b. The full valuation of the property in the municipality may exceed \$40,000,000 if the land area of the municipality exceeds 54 square miles.

(bm) *Full value limit.* If the full valuation of the property in an eligible municipality exceeds \$40,000,000 and the land area of the eligible municipality exceeds 54 square miles, full valuation of the property in the eligible municipality shall be considered to be \$40,000,000 under pars. (c) 1., (d) 1. and (e) 1.

(c) *Payment.* Subject to the total distribution amount limits in par. (f), the minimum payment under par. (d) and the maximum payment under par. (e), each eligible municipality is entitled to shared revenue from the appropriation under s. 20.835 (1) (b), in addition to its shared revenue entitlements under sub. (1), calculated as follows:

1. Divide the full valuation of the property in the municipality by \$40,000,000.
2. Multiply the result under subd. 1. by \$55.
3. Subtract the amount under subd. 2. from \$55.
4. Multiply the municipality's population by the amount under subd. 3. or by \$10, whichever is greater.

(d) *Minimum payment.* The minimum payment that an eligible municipality may receive under this subsection is the greater of zero or an amount calculated as follows:

1. Divide the full valuation of the property in the municipality by \$1,000,000.
2. Multiply the result under subd. 1. by \$720.
3. Subtract the amount under subd. 2. from \$18,000.

(e) *Maximum payment.* The maximum payment that an eligible municipality may receive under this subsection is the greater of \$10,000 or an amount calculated as follows:

1. Divide the full valuation of the property in the municipality by \$1,000,000.
2. Multiply the result under subd. 1. by \$1,750.
3. Subtract the amount under subd. 2. from \$45,000.

(f) *Distribution amount.* If the total amounts calculated under pars. (c) to (e) exceed the total amount to be distributed under this subsection, the amount paid to each eligible municipality shall be paid on a prorated basis. The total amount to be distributed under this subsection from s. 20.835 (1) (b) is \$10,000,000 in 1996 and thereafter.

(4) In 1991, the total amount to be distributed under ss. 79.03, 79.04 and 79.06 from s. 20.835 (1) (d) is \$869,000,000. In 1992, the total amount to be distributed under ss. 79.03, 79.04 and 79.06 from s. 20.835 (1) (d) is \$885,961,300. In 1993, the total amount to be distributed under ss. 79.03, 79.04 and 79.06 from s. 20.835 (1) (d) is \$903,680,500. In 1994, the total amounts to be distributed under this section and ss. 79.04 and 79.06 from s. 20.835 (1) (d) are \$746,547,500 to municipalities and \$168,981,800 to counties. In 1995 and subsequent years, the total amounts to be distributed under ss. 79.03, 79.04 and 79.06 from s. 20.835 (1) (d) are \$761,478,000 to municipalities and \$168,981,800 to counties.

(4b) The total amount specified in sub. (4) for any year shall be reduced by the total of all reductions in shared revenue payments for that year under s. 66.77 (4).

History: 1971 c. 125, 215; 1973 c. 90; 1975 c. 39; 1977 c. 29, 203, 418; 1979 c. 1; 1979 c. 34 ss. 903a to 905m, 2102 (46) (d); 1979 c. 221; 1981 c. 20, 93, 314, 317; 1983 a. 27, 189; 1985 a. 29, 120; 1987 a. 27, 399; 1989 a. 31, 56, 336; 1991 a. 39, 269; 1993 a. 16, 437, 490; 1995 a. 27; 1997 a. 27, 164, 237.

See note to s. 16.50, citing Milwaukee v. Lindner, 98 W (2d) 624, 297 NW (2d) 828 (1980).

79.04 Public utility distribution. (1) Annually the department of administration, upon certification by the department of revenue, shall distribute to a municipality having within its boundaries a production plant or a general structure, including production plants and general structures under construction, used by a light, heat or power company assessed under s. 76.28 (1) (k)

except property described in s. 66.069 (2) unless the production plant is owned or operated by a local governmental unit located outside of the municipality, or by an electric cooperative assessed under ss. 76.07 and 76.48, respectively, or by a municipal electric company under s. 66.073 the amount determined as follows:

(a) An amount from the shared revenue account determined by multiplying by 3 mills in the case of a town, and 6 mills in the case of a city or village, the first \$125,000,000 of the amount shown in the account, plus leased property, of each public utility except ~~qualified wholesale electric companies as defined in s. 76.28 (1) (gm)~~ on December 31 of the preceding year for either "production plant, exclusive of land" and "general structures", or "work in progress" for production plants and general structures under construction, in the case of light, heat and power companies, electric cooperatives or municipal electric companies, for all property within a municipality in accordance with the system of accounts established by the public service commission or rural electrification administration, less depreciation thereon as determined by the department of revenue and less the value of treatment plant and pollution abatement equipment, as defined under s. 70.11 (21) (a), as determined by the department of revenue plus an amount from the shared revenue account determined by multiplying by 3 mills in the case of a town, and 6 mills in the case of a city or village, of the first \$125,000,000 of the total original cost of production plant, general structures and work-in-progress less depreciation, land and approved waste treatment facilities of each ~~qualified wholesale electric company as defined in s. 76.28 (1) (gm)~~ as reported to the department of revenue of all property within the municipality. The total of amounts, as depreciated, from the accounts of all public utilities for the same production plant is also limited to not more than \$125,000,000. The amount distributable to a municipality in any year shall not exceed \$300 times the population of the municipality.

(b) 1. Beginning with the distribution under this subsection in 1991, the amount determined under par. (a) to value property used by a light, heat or power company in a municipality may not be less than the amount determined to value the property for the distribution to the municipality under this subsection in 1990, subject to subds. 2., 3. and 4.

2. When a light, heat or power company no longer uses property described under par. (a) as production plant or general structure in a municipality, the amount established under subd. 1. shall be reduced by the proportion that the property that is no longer used bears to the total value of all property described in par. (a) in the municipality. The proportion shall be determined according to the proportional value of the property when the light, heat or power company stops using the property.

3. The amount of a distribution under this paragraph, as affected by subd. 1., may not exceed the per capita amount established under par. (a).

4. If property of a light, heat or power company described under par. (a) is included in the value of property for the distribution to the municipality under this subsection in 1990 and is located in territory annexed by another municipality after December 31, 1989, the amount established under subd. 1. shall be reduced annually by one-fifth of the value of the property located in the annexed territory for 5 consecutive years, beginning with the distribution in 1994 or with the first distribution after the year in which the annexation occurs, whichever is later.

(c) 1. The payment for any municipality in which a production plant is located, which the public service commission certifies to the department of revenue will produce a nominal rated capacity of 200 megawatts or more, shall be no less than \$75,000 annually, except that the amount distributable to a municipality in any year shall not exceed the per capita limit specified in par. (a). Payments under this paragraph may be extended to decommissioned production plants as provided in subd. 3.

2. If a production plant is located in more than one municipal-

2013 97-98 Wis. Stats.

76.28(1)(K)

STATE REVENUE SHARING 79.05

ing to the amounts shown on the preceding December 31 for the production plant in the account described in par. (a) for "production plant exclusive of land" within each municipality for all public utilities except ~~qualified wholesale electric companies~~ as defined in s. 76.28 (1) (gm) or according to the value as reported to the department of revenue under par. (a) of the production plant within each municipality for each qualified wholesale electric company. The payment to each municipality under this subdivision shall be no less than \$15,000 annually.

3. If a production plant with a nominal rated capacity of 200 megawatts or more is decommissioned or becomes nonutility property, the \$75,000 minimum guaranteed payment under subd. 1. shall continue but diminish by \$7,500 annually, except that the minimum guaranteed payment under this subdivision shall cease in the year following the first year in which the property becomes taxable by the taxation district. In this subdivision, "nonutility property" has the meaning set forth in the uniform system of accounts established by the public service commission.

(2) (a) Annually, the department of administration, upon certification by the department of revenue, shall distribute from the shared revenue account to any county having within its boundaries a production plant or a general structure, including production plants and general structures under construction, used by a light, heat or power company assessed under s. 76.28 (2), except property described in s. 66.069 (2) unless the production plant is owned or operated by a local governmental unit that is located outside of the municipality in which the production plant is located, or by an electric cooperative assessed under ss. 76.07 and 76.48, respectively, or by a municipal electric company under s. 66.073 an amount determined by multiplying by 6 mills in the case of property in a town and by 3 mills in the case of property in a city or village the first \$125,000,000 of the amount shown in the account, plus leased property, of each public utility except ~~qualified wholesale electric companies~~ as defined in s. 76.28 (1) (gm), on December 31 of the preceding year for either "production plant, exclusive of land" and "general structures", or "work in progress" for production plants and general structures under construction. In the case of light, heat and power companies, electric cooperatives or municipal electric companies, for all property within the municipality in accordance with the system of accounts established by the public service commission or rural electrification administration, less depreciation thereon as determined by the department of revenue and less the value of treatment plant and pollution abatement equipment, as defined under s. 70.11 (21) (a), as determined by the department of revenue plus an amount from the shared revenue account determined by multiplying by 6 mills in the case of property in a town, and 3 mills in the case of property in a city or village, of the total original cost of production plant, general structures and work-in-progress less depreciation, land and approved waste treatment facilities of each ~~qualified wholesale electric company~~ as defined in s. 76.28 (1) (gm), as reported to the department of revenue of all property within the municipality. The total of amounts, as depreciated, from the accounts of all public utilities for the same production plant is also limited to not more than \$125,000,000. The amount distributable to a county in any year shall not exceed \$100 times the population of the county.

(am) 1. Beginning with the distribution under this subsection in 1991, the amount determined under par. (a) to value property used by a light, heat or power company in a county may not be less than the amount determined to value the property for the distribution to the county under this subsection in 1990, subject to subds. 2. and 3.

2. When a light, heat or power company no longer uses property described under par. (a) as production plant or general structure in a county, the amount established under subd. 1. shall be reduced by the proportion that the property that is no longer used bears to the total value of all property described in par. (a) in the county. The proportion shall be determined according to the pro-

portional value of the property when the light, heat or power company stops using the property.

3. The amount of a distribution under this paragraph, as affected by subd. 1., may not exceed the per capita amount established under par. (a).

(b) The payment under par. (a) for any county in which a production plant is located, which the public service commission certifies to the department of revenue will produce a nominal rated capacity of 200 megawatts or more, shall be not less than \$75,000 annually, except that the amount distributable to a county in any year shall not exceed the per capita limit specified in par. (a).

(4) (a) Annually, in addition to the amount distributed under sub. (1), the department of administration shall distribute \$50,000 to a municipality if spent nuclear fuel is stored within the municipality on December 31 of the preceding year. If a spent nuclear fuel storage facility is located within one mile of a municipality, that municipality shall receive \$10,000 annually and the municipality where that storage facility is located shall receive \$40,000 annually.

(b) Annually, in addition to the amount distributed under sub. (2), the department of administration shall distribute \$50,000 to a county if spent nuclear fuel is stored within the county on December 31 of the preceding year. If a spent nuclear fuel storage facility is located at a production plant located in more than one county, the payment shall be apportioned according to the formula under sub. (1) (c) 2., except that the formula, as it applies to municipalities in that subdivision, applies to counties in this paragraph. The payment under this paragraph may not be less than \$10,000 annually.

History: 1971 c. 125, 215; 1973 c. 90 ss. 387, 391g; 1973 c. 243 s. 82; 1975 c. 39, 224; 1977 c. 29, 418; 1979 c. 34; 1983 a. 27; 1985 a. 29, 39; 1987 a. 27; 1989 a. 31; 1993 a. 16, 307; 1995 a. 27.

79.05 Expenditure restraint program. (1) In this section:

(a) "Full value" means the value determined under s. 70.57 including the value of tax increments under s. 66.46.

(am) "Inflation factor" means a percentage equal to the average annual percentage change in the U.S. consumer price index for all urban consumers, U.S. city average, as determined by the U.S. department of labor, for the 12 months ending on September 30 of the year before the statement under s. 79.015.

(b) "Municipal budget" means the municipality's general fund.

(c) "Property tax levy rate" means the amount determined as follows:

1. Subtract the tax increment under s. 66.46 from the total property tax levy.

2. Subtract the tax incremental value under s. 66.46 from the full value.

3. Divide the amount under subd. 1. by the amount under subd. 2.

(d) "Valuation factor" means a percentage equal to 60% of the percentage change in the municipality's equalized value due to new construction less improvements removed between the year before the statement under s. 79.015 and the previous year, but not less than zero nor greater than 2.

(2) A municipality is eligible for a payment under sub. (3) if it fulfills all of the following requirements:

(a) Its property tax levy rate established during the year before the statement under s. 79.015 is greater than 5 mills.

(c) Its municipal budget, exclusive of principal and interest on long-term debt, for the year of the statement under s. 79.015 increased over its municipal budget as adjusted under sub. (6), exclusive of principal and interest on long-term debt, for the year before that year by less than the sum of the inflation factor and the valuation factor, rounded to the nearest 0.10%.

4483/1

1999 BILL

M 2-4-2000

SOON

re-gen

1 **AN ACT** to amend 76.025 (2), 76.28 (1) (d), 76.28 (1) (e) (intro.), 76.28 (2) (a), 76.28
 2 (2) (c) (intro.) and 76.28 (2) (d); and to create 76.28 (1) (k) and 76.28 (2) (f) of
 3 the statutes; relating to: license fees for wholesale merchant electric plants.

Analysis by the Legislative Reference Bureau

Under current law, in lieu of paying local property taxes, a light, heat and power company pays a license fee to the state based on a percentage of the company's gross revenue that is attributable to this state. Under this bill, in lieu of paying local property taxes, a wholesale merchant electric plant pays a license fee to the state equal to 1.59% of the plant's gross revenue that is attributable to this state, if the plant is certified or approved by the public service commission after December 31, 1999.

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:

4 **SECTION 1.** 76.025 (2) of the statutes is amended to read:
 5 76.025 (2) If the property of any company defined in s. 76.28 (1), except a
 6 qualified wholesale electric company as defined in s. 76.28 (1) (gm) and a wholesale

BILL

1 merchant plant as defined in s. 76.28 (1) (k), is located entirely within a single town,
2 village or city, it shall be subject to local assessment and taxation.

3 **SECTION 2.** 76.28 (1) (d) of the statutes, as affected by 1999 Wisconsin Act 9, is
4 amended to read:

5 76.28 (1) (d) “Gross revenues” for a light, heat and power company other than
6 a qualified wholesale electric company, a wholesale merchant plant or a
7 transmission company means total operating revenues as reported to the public
8 service commission except revenues for interdepartmental sales and for
9 interdepartmental rents as reported to the public service commission and deductions
10 from the sales and use tax under s. 77.61 (4), except that the company may subtract
11 from revenues either the actual cost of power purchased for resale, as reported to the
12 public service commission, by a light, heat and power company, except a municipal
13 light, heat and power company, that purchases under federal or state approved
14 wholesale rates more than 50% of its electric power from a person other than an
15 affiliated interest, as defined in s. 196.52 (1), if the revenue from that purchased
16 electric power is included in the seller’s gross revenues or the following percentages
17 of the actual cost of power purchased for resale, as reported to the public service
18 commission, by a light, heat and power company, except a municipal light, heat and
19 power company that purchases more than 90% of its power and that has less than
20 \$50,000,000 of gross revenues: 10% for the fee assessed on May 1, 1988, 30% for the
21 fee assessed on May 1, 1989, and 50% for the fee assessed on May 1, 1990, and
22 thereafter. For a qualified wholesale electric company and a wholesale merchant
23 plant, “gross revenues” means total business revenues from those businesses
24 included under par. (e) 1. to 4. For a transmission company, “gross revenues” means
25 total operating revenues as reported to the public service commission, except

BILL

1 revenues for transmission service that is provided to a public utility that is subject
2 to the license fee under sub. (2) (d), to a public utility, as defined in s. 196.01 (5), or
3 to a cooperative association organized under ch. 185 for the purpose of providing
4 electricity to its members only. For an electric utility, as defined in s. 16.957 (1) (g),
5 “gross revenues” does not include public benefits fees collected by the electric utility
6 under s. 16.957 (4) (a) or (5) (a). For a generator public utility, “gross revenues” does
7 not include any grants awarded to the generator public utility under s. 16.958 (2) (b).
8 For a wholesale supplier, as defined in s. 16.957 (1) (w), “gross revenues” does not
9 include any public benefits fees that are received from a municipal utility or retail
10 electric cooperative or under a joint program established under s. 16.957 (5) (f). For
11 a municipal utility, “gross revenues” does not include public benefits fees received by
12 the municipal utility from a municipal utility or retail electric cooperative under a
13 joint program established under s. 16.957 (5) (f).

14 **SECTION 3.** 76.28 (1) (e) (intro.) of the statutes, as affected by 1999 Wisconsin
15 Act 9, is amended to read:

16 76.28 (1) (e) (intro.) “Light, heat and power companies” means any person,
17 association, company or corporation, including corporations described in s. 66.069
18 (2), qualified wholesale electric companies, wholesale merchant plants and
19 transmission companies and except only business enterprises carried on exclusively
20 either for the private use of the person, association, company or corporation engaged
21 in them, or for the private use of a person, association, company or corporation
22 owning a majority of all outstanding capital stock or who control the operation of
23 business enterprises and except electric cooperatives taxed under s. 76.48 that
24 engage in any of the following businesses:

25 **SECTION 4.** 76.28 (1) (k) of the statutes is created to read:

BILL**SECTION 4**

1 76.28 (1) (k) "Wholesale merchant plants" means wholesale merchant plants,
2 as defined in s. 196.491 (1) (w), that receive a certificate of public convenience and
3 necessity under s. 196.491 (3) after December 31, 1999, or that are approved under
4 s. 196.491 (3m) after December 31, 1999.

5 **SECTION 5.** 76.28 (2) (a) of the statutes is amended to read:

6 76.28 (2) (a) There is imposed on every light, heat and power company an
7 annual license fee to be assessed by the department on or before May 1, 1985, and
8 every May 1 thereafter measured by the gross revenues of the preceding year at the
9 rates and by the methods set forth under pars. (b) to ~~(d)~~ (f). The fee shall become
10 delinquent if not paid when due and when delinquent shall be subject to interest at
11 the rate of 1.5% per month until paid. Payment in full of the May 1 assessment
12 constitutes a license to carry on business for the 12-month period commencing on the
13 preceding January 1.

14 **SECTION 6.** 76.28 (2) (c) (intro.) of the statutes, as affected by 1999 Wisconsin
15 Act 9, is amended to read:

16 76.28 (2) (c) (intro.) Except as provided under ~~par.~~ pars. (e) and (f), for private
17 light, heat and power companies for 1986 and thereafter, an amount equal to the
18 apportionment factor multiplied by the sum of:

19 **SECTION 7.** 76.28 (2) (d) of the statutes, as affected by 1999 Wisconsin Act 9, is
20 amended to read:

21 76.28 (2) (d) Except as provided under ~~par.~~ pars. (e) and (f), for municipal light,
22 heat and power companies, an amount equal to the gross revenues, except gross
23 revenues from operations within the municipality that operates the company,
24 multiplied by the rates under par. (b) or (c).

25 **SECTION 8.** 76.28 (2) (f) of the statutes is created to read:

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4483/?ins
JK:.....

Insert 5 - 2

1 SECTION ~~79.04~~ 79.04 (1) (a) of the statutes is amended to read:

2 79.04 (1) (a) An amount from the shared revenue account determined by
3 multiplying by 3 mills in the case of a town, and 6 mills in the case of a city or village,
4 the first \$125,000,000 of the amount shown in the account, plus leased property, of
5 each public utility except qualified wholesale electric companies, as defined in s.
6 76.28 (1) (gm), ~~and except wholesale merchant plants, as defined in s. 76.28 (1) (k),~~
7 on December 31 of the preceding year for either "production plant, exclusive of land"
8 and "general structures", or "work in progress" for production plants and general
9 structures under construction, in the case of light, heat and power companies,
10 electric cooperatives or municipal electric companies, for all property within a
11 municipality in accordance with the system of accounts established by the public
12 service commission or rural electrification administration, less depreciation thereon
13 as determined by the department of revenue and less the value of treatment plant
14 and pollution abatement equipment, as defined under s. 70.11 (21) (a), as determined
15 by the department of revenue plus an amount from the shared revenue account
16 determined by multiplying by 3 mills in the case of a town, and 6 mills in the case
17 of a city or village, of the first \$125,000,000 of the total original cost of production
18 plant, general structures and work-in-progress less depreciation, land and
19 approved waste treatment facilities of each qualified wholesale electric company, as
20 defined in s. 76.28 (1) (gm), ~~and each wholesale merchant plant, as defined in s. 76.28~~
21 ~~(1) (k),~~ as reported to the department of revenue of all property within the
22 municipality. The total of amounts, as depreciated, from the accounts of all public
23 utilities for the same production plant is also limited to not more than \$125,000,000.

1 The amount distributable to a municipality in any year shall not exceed \$300 times
2 the population of the municipality.

3 SECTION ~~2~~ 79.04 (1) (c) 2. of the statutes is amended to read:

4 79.04 (1) (c) 2. If a production plant is located in more than one municipality,
5 the total payment under subd. 1. shall be apportioned according to the amounts
6 shown on the preceding December 31 for the production plant in the account
7 described in par. (a) for "production plant exclusive of land" within each municipality
8 for all public utilities except qualified wholesale electric companies, as defined in s.
9 76.28 (1) (gm), ~~and except wholesale merchant plants, as defined in s. 76.28 (1) (k),~~
10 or according to the value as reported to the department of revenue under par. (a) of
11 the production plant within each municipality for each qualified wholesale electric
12 company. The payment to each municipality under this subdivision shall be no less
13 than \$15,000 annually.

to Plain Space

WFO: underscore this comma →

14 SECTION ~~3~~ 79.04 (2) (a) of the statutes is amended to read:

15 79.04 (2) (a) Annually, the department of administration, upon certification by
16 the department of revenue, shall distribute from the shared revenue account to any
17 county having within its boundaries a production plant or a general structure,
18 including production plants and general structures under construction, used by a
19 light, heat or power company assessed under s. 76.28 (2), except property described
20 in s. 66.069 (2) unless the production plant is owned or operated by a local
21 governmental unit that is located outside of the municipality in which the production
22 plant is located, or by an electric cooperative assessed under ss. 76.07 and 76.48,
23 respectively, or by a municipal electric company under s. 66.073 an amount
24 determined by multiplying by 6 mills in the case of property in a town and by 3 mills
25 in the case of property in a city or village the first \$125,000,000 of the amount shown

1 in the account, plus leased property, of each public utility except qualified wholesale
2 electric companies, as defined in s. 76.28 (1) (gm), ^{to Plain Space} and except wholesale merchant
3 plants, as defined in s. 76.28 (1) (k), ^{WFO: underscore this comma} on December 31 of the preceding year for either
4 “production plant, exclusive of land” and “general structures”, or “work in progress”
5 for production plants and general structures under construction, in the case of light,
6 heat and power companies, electric cooperatives or municipal electric companies, for
7 all property within the municipality in accordance with the system of accounts
8 established by the public service commission or rural electrification administration,
9 less depreciation thereon as determined by the department of revenue and less the
10 value of treatment plant and pollution abatement equipment, as defined under s.
11 70.11 (21) (a), as determined by the department of revenue plus an amount from the
12 shared revenue account determined by multiplying by 6 mills in the case of property
13 in a town, and 3 mills in the case of property in a city or village, of the total original
14 cost of production plant, general structures and work-in-progress less depreciation,
15 land and approved waste treatment facilities of each qualified wholesale electric
16 company, as defined in s. 76.28 (1) (gm), ^{to Plain Space} and each wholesale merchant plant, as
17 defined in s. 76.28 (1) (k), ^{WFO: underscore this comma} as reported to the department of revenue of all property
18 within the municipality. The total of amounts, as depreciated, from the accounts of
19 all public utilities for the same production plant is also limited to not more than
20 \$125,000,000. The amount distributable to a county in any year shall not exceed
21 \$100 times the population of the county.

**SUBMITTAL
FORM**

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

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

Date: 02/07/2000

To: Senator Wirch

Relating to LRB drafting number: LRB-4483

Topic

Wholesale merchant plant

Subject(s)

Tax - utilities

1. **JACKET** the draft for introduction _____

Bob Wirch

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

2. **REDRAFT**. See the changes indicated or attached _____.

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

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____

X

*FC sent
2/7/00*

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

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

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

*amend
4483/1
=*



DATE: MARCH 10, 2000

MEMO TO: INTERESTED PARTIES

MEMO FROM: JOE STROHL *JS*

RE: WHOLESALE GROSS RECEIPTS TAX

44 East Mifflin Street
Suite 905
Madison, WI 53703

608.256.2290
Fax: 608.256.2275
Internet: www.gen.pge.com

In an effort to resolve outstanding issues, including the interstate commerce clause issue, raised in response to our March 6, 2000 Memo on Merchant Plant Taxes, we offer the following proposal:

1. The current GRT rate of 3.19% continues to apply to all retail sales of electricity.
2. A new GRT rate of 1.59% would apply to all wholesale sales of electricity, both in state and out of state. This rate would apply to:
 - a. All sales made by merchant plants and the existing or planned "RFP" plants.
 - b. The wholesale sales made by Wisconsin investor owned utility companies.
 - c. All sales made by Dairyland Power Cooperative.
 - d. Companies selling wholesale to in-state entities that are not subject to GRT.
3. The new wholesale tax rate would become effective 7-1-2002.
4. The 1.59% wholesale tax rate would sunset on 7-1-2008. The rate after 7-1-2008 would revert back to the 3.19%.
5. Clarify existing law to insure that intermediate wholesale transactions are not subject to GRT.
6. Clarify existing law to insure that communities hosting a merchant plant receive the same shared revenue payment as those which host a utility plant.

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Pacific Gas and Elec
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To	Joe Kreye	From	Amber		
Co./Dept.	L RB	Co.	Sen. Wirch		
Phone #		Phone #	267-8979		
Fax #	264-8522	Fax #			

are not the same company as
need companies are regulat-
e to buy products from these
ity.

AN ACT to amend 76.025(2), 76.28(1)(d), 79.04(1)(a), 79.04(1)(c)2. and 79.04(2)(a); and to create 76.28(1) and 76.29 of the statutes; relating to: certain license fees.

Analysis by the Legislative Reference Bureau

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

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

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

SECTION 2. 76.28(1) of the statutes, as affected by 1999 Wisconsin Act 9, is renumbered as 76.28(1m):

SECTION 3. 76.28(1) of the statutes is created to read:

76.28(1) This section applies except as provided in Section 76.29.

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

76.29 License fee for selling electricity at wholesale.

(1) Definitions. In this section:

- (a) "Apportionment factor" has the meaning under s. 76.28(1m)(1).
- (b) "Department" means the department of revenue.
- (c) "Electric cooperative" has the meaning under s. 76.48(1g)(c).
- (d) "Gross revenues" means total revenues from the sale of electricity for resale by the purchaser.
- (e) "Light, heat and power companies" has the meaning under s. 76.28(1m)(e).
- (f) "Payroll factor" has the meaning under s. 76.28(1m)(f).
- (g) "Property factor" has the meaning under s. 76.28(1m)(g).
- (h) "Sales factor" means a fraction the numerator of which is the taxpayer's total sales of electricity to purchasers in this state for resale during the tax period and the denominator of which is the taxpayer's total sales of electricity for the tax period.
- (i) "Tax period" means each calendar year or portion thereof between July 1, 2002 and June 30, 2008.

76.29(2) **Imposition.** There is imposed on every light, heat and power company and electric cooperative which owns electric utility plant an annual license fee to be assessed each tax period by the department on or before May 1, 2003 and every May 1 thereafter measured by gross revenues of the preceding tax period multiplied by the apportionment factor multiplied by 1.59%. The fee shall become delinquent if not paid when due and when delinquent shall be subject to interest at the rate of 1.5% per month until paid.

76.29(3) Payments. The department shall promulgate rules providing for payment of the fee on an estimated basis substantially in conformity with s. 76.28(3).

76.29(4) Other. Sections 76.28(4) through (11) shall apply to the fee imposed by this section.

SECTION 5. The first sentence of 76.48(1r) of the statutes is amended to read:

Except for sales of electricity subject to s. 76.29, every electric cooperative shall pay, in lieu of other general property and income or franchise taxes, an annual license fee equal to its apportionment factor multiplied by its gross revenues multiplied by 3.19%.

SECTION 6. 79.04(1)(a) of the statutes is amended to read:

79.04(1)(a) An amount from the shared revenue account determined by multiplying by 8 mills in the case of a town, and 6 mills in the case of a city or village, the first \$125,000,000 of the amount shown in the account, plus leased property, of each public utility except qualified wholesale electric companies, as defined in s. 76.28(1)(gm), and except wholesale merchant plants, as defined in s. 196.491(1)(w), on December 31 of the preceding year for either "production plant, exclusive of land" and "general structures", or "work in progress" for production plants and general structures under construction, in the case of light, heat and power companies, electric cooperatives or municipal electric companies, for all property within a municipality in accordance with the system of accounts established by the public service commission or rural electrification administration, less depreciation thereon as determined by the department of revenue and less the value of treatment plant and pollution abatement equipment, as defined under s. 70.11(21)(a), as determined by the department of revenue plus

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

SECTION 7. 79.04(1)~~(c)~~2. of the statutes is amended to read:

79.04(1)(c)2. If a production plant is located in more than one municipality, the total payment under subd. 1. shall be apportioned according to the amounts shown on the preceding December 31 for the production plant in the account described in par. (a) for "production plant exclusive of land" within each municipality for all public utilities except qualified wholesale electric companies, as defined in s. 76.28(1)(gm), and except wholesale merchant plants, as defined in s. 196.491(1)(w), or according to the value as reported to the department of revenue under par.(a) of the production plant within each municipality for each qualified wholesale electric company. The payment to each municipality under this subdivision shall be no less than \$150,000 annually.

SECTION 8. 79.04(2)(a) of the statutes is amended to read:

79.04(2)(a) Annually, the department of administration, upon certification by the department of revenue, shall distribute from the shared revenue account to any county having

within its boundaries a production plant or a general structure, including production plants and general structures under construction, used by a light, heat or power company assessed under s. 76.28(2), except property described in s. 66.069(2) unless the production plant is owned or operated by a local governmental unit that is located outside of the municipality in which the production plant is located, or by an electric cooperative assessed under ss. 76.07 and 76.48, respectively, or by a municipal electric company under s. 66.073 an amount determined by multiplying by 6 mills in the case of property in a town and by 3 mills in the case of property in a city or village the first \$125,000,000 of the amount shown in the account, plus leased property, of each public utility except qualified wholesale electric companies, as defined in s. 76.28(1)(gm), and except wholesale merchant plants, as defined in s. 196.491(1)(w), on December 31 of the preceding year for either "production plant, exclusive of land" and "general structures", or "work in progress" for production plants and general structures under construction, in the case of light, heat and power companies, electric cooperatives or municipal electric companies, for all property within the municipality in accordance with the system of accounts established by the public service commission or rural electrification administration, less depreciation thereon as determined by the department of revenue and less the value of treatment plant and pollution abatement equipment, as defined under s. 70.11(21)(a), as determined by the department of revenue plus an amount from the shared revenue account determined by multiplying by 6 mills in the case of property in a town, and 8 mills in the case of property in a city or village, of the total original cost of production plant, general structures and work-in-progress less depreciation, land and approved waste treatment facilities of each qualified wholesale electric company, as defined in s. 76.28(1)(gm), and each wholesale merchant plant, as defined in s. 196.491(1)(w), as reported to the department of revenue of all

property within the municipality. The total of amounts, as depreciated, from the accounts of all public utilities for the same production plant is also limited to not more than \$125,000,000. The amount distributable to a county in any year shall not exceed \$100 times the population of the county.

SECTION 9. Initial applicability.

(1) This act first applies to the license fee assessments as of May 1, 2003.

(END)

2

1999 BILL

in 3-16-2000

SOON

inserts

reger

1 AN ACT to amend 76.025 (2), 76.28 (1) (d), 76.28 (1) (e) (intro.), 76.28 (2) (a), 76.28
 2 (2) (c) (intro.), 76.28 (2) (d), 79.04 (1) (a), 79.04 (1) (c) 2. and 79.04 (2) (a); and
 3 to create 76.28 (1) (k) and 76.28 (2) (f) of the statutes; relating to: license fees
 4 for wholesale merchant electric plants.

based on the sale of wholesale electricity

Analysis by the Legislative Reference Bureau

Under current law, in lieu of paying local property taxes, a light, heat and power company pays a license fee to the state based on a percentage of the company's gross revenue that is attributable to this state. Under this bill, in lieu of paying local property taxes, a wholesale merchant electric plant pays a license fee to the state equal to 1.59% of the plant's gross revenue that is attributable to this state, if the plant is certified or approved by the public service commission after December 31, 1999.

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:

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

INSERT A

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

5 ~~SECTION 2. 76.28 (1) (d) of the statutes, as affected by 1999 Wisconsin Act 9, is~~
 6 ~~amended to read:~~

7 76.28 (1) (d) "Gross revenues" for a light, heat and power company other than
 8 a qualified wholesale electric company, a wholesale merchant plant or a
 9 transmission company means total operating revenues as reported to the public
 10 service commission except revenues for interdepartmental sales and for
 11 interdepartmental rents as reported to the public service commission and deductions
 12 from the sales and use tax under s. 77.61 (4), except that the company may subtract
 13 from revenues either the actual cost of power purchased for resale, as reported to the
 14 public service commission, by a light, heat and power company, except a municipal
 15 light, heat and power company, that purchases under federal or state approved
 16 wholesale rates more than 50% of its electric power from a person other than an
 17 affiliated interest, as defined in s. 196.52 (1), if the revenue from that purchased
 18 electric power is included in the seller's gross revenues or the following percentages
 19 of the actual cost of power purchased for resale, as reported to the public service
 20 commission, by a light, heat and power company, except a municipal light, heat and
 21 power company that purchases more than 90% of its power and that has less than
 22 \$50,000,000 of gross revenues: 10% for the fee assessed on May 1, 1988, 30% for the
 23 fee assessed on May 1, 1989, and 50% for the fee assessed on May 1, 1990, and
 24 thereafter. For a qualified wholesale electric company and a wholesale merchant
 25 plant, "gross revenues" means total business revenues from those businesses

BILL

1 included under par. (e) 1. to 4. For a transmission company, "gross revenues" means
2 total operating revenues as reported to the public service commission, except
3 revenues for transmission service that is provided to a public utility that is subject
4 to the license fee under sub. (2) (d), to a public utility, as defined in s. 196.01 (5), or
5 to a cooperative association organized under ch. 185 for the purpose of providing
6 electricity to its members only. For an electric utility, as defined in s. 16.957 (1) (g),
7 "gross revenues" does not include public benefits fees collected by the electric utility
8 under s. 16.957 (4) (a) or (5) (a). For a generator public utility, "gross revenues" does
9 not include any grants awarded to the generator public utility under s. 16.958 (2) (b).
10 For a wholesale supplier, as defined in s. 16.957 (1) (w), "gross revenues" does not
11 include any public benefits fees that are received from a municipal utility or retail
12 electric cooperative or under a joint program established under s. 16.957 (5) (f). For
13 a municipal utility, "gross revenues" does not include public benefits fees received by
14 the municipal utility from a municipal utility or retail electric cooperative under a
15 joint program established under s. 16.957 (5) (f).

16 **SECTION 3.** 76.28 (1) (e) (intro.) of the statutes, as affected by 1999 Wisconsin
17 Act 9, is amended to read:

18 76.28 (1) (e) (intro.) "Light, heat and power companies" means any person,
19 association, company or corporation, including corporations described in s. 66.069
20 (2), qualified wholesale electric companies, wholesale merchant plants and
21 transmission companies and except only business enterprises carried on exclusively
22 either for the private use of the person, association, company or corporation engaged
23 in them, or for the private use of a person, association, company or corporation
24 owning a majority of all outstanding capital stock or who control the operation of

BILL

1 business enterprises and except electric cooperatives taxed under s. 76.48 that
2 engage in any of the following businesses:

3 ~~SECTION 4. 76.28 (1) (k) of the statutes is created to read:~~

4 76.28 (1) (k) "Wholesale merchant plants" means wholesale merchant plants,
5 as defined in s. 196.491 (1) (w), that receive a certificate of public convenience and
6 necessity under s. 196.491 (3) after December 31, 1999, or that are approved under
7 s. 196.491 (3m) after December 31, 1999.

8 SECTION 5. 76.28 (2) (a) of the statutes is amended to read:

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

excluding gross revenues under s. 76.29

17 ~~SECTION 6. 76.28 (2) (c) (intro.) of the statutes, as affected by 1999 Wisconsin
18 Act 9, is amended to read:~~

19 ~~76.28 (2) (c) (intro.) Except as provided under par. pars. (e) and (f), for private
20 light, heat and power companies for 1986 and thereafter, an amount equal to the
21 apportionment factor multiplied by the sum of:~~

22 ~~SECTION 7. 76.28 (2) (d) of the statutes, as affected by 1999 Wisconsin Act 9, is
23 amended to read:~~

24 ~~76.28 (2) (d) Except as provided under par. pars. (e) and (f), for municipal light,
25 heat and power companies, an amount equal to the gross revenues, except gross~~

INSERT B

BILL

1 revenues from operations within the municipality that operates the company,
2 multiplied by the rates under par. (b) or (c).

3 SECTION 8. ~~76.28 (2) (f)~~ of the statutes is created to read:

4 ~~76.28 (2) (f) For wholesale merchant plants, an amount equal to the~~
5 ~~apportionment factor multiplied by the sum of gross revenues multiplied by 1.59%.~~

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

7 79.04 (1) (a) An amount from the shared revenue account determined by
8 multiplying by 3 mills in the case of a town, and 6 mills in the case of a city or village,
9 the first \$125,000,000 of the amount shown in the account, plus leased property, of
10 each public utility except qualified wholesale electric companies, as defined in s.

196491
(17)(w)

11 76.28 (1) (gm), and except wholesale merchant plants, as defined in s. ~~76.28(1)(a)~~.

12 on December 31 of the preceding year for either "production plant, exclusive of land"
13 and "general structures", or "work in progress" for production plants and general

14 structures under construction, in the case of light, heat and power companies,
15 electric cooperatives or municipal electric companies, for all property within a

16 municipality in accordance with the system of accounts established by the public
17 service commission or rural electrification administration, less depreciation thereon

18 as determined by the department of revenue and less the value of treatment plant
19 and pollution abatement equipment, as defined under s. 70.11 (21) (a), as determined

20 by the department of revenue plus an amount from the shared revenue account
21 determined by multiplying by 3 mills in the case of a town, and 6 mills in the case

22 of a city or village, of the first \$125,000,000 of the total original cost of production
23 plant, general structures and work-in-progress less depreciation, land and

24 approved waste treatment facilities of each qualified wholesale electric company, as
25 defined in s. 76.28 (1) (gm), and each wholesale merchant plant, as defined in s. ~~76.28~~



BILL

196.491(1)(w)

SECTION 9

1 ~~(1)(a)~~ as reported to the department of revenue of all property within the
 2 municipality. The total of amounts, as depreciated, from the accounts of all public
 3 utilities for the same production plant is also limited to not more than \$125,000,000.
 4 The amount distributable to a municipality in any year shall not exceed \$300 times
 5 the population of the municipality.

SECTION 10. 79.04 (1) (c) 2. of the statutes is amended to read:

7 79.04 (1) (c) 2. If a production plant is located in more than one municipality,
 8 the total payment under subd. 1. shall be apportioned according to the amounts
 9 shown on the preceding December 31 for the production plant in the account
 10 described in par. (a) for "production plant exclusive of land" within each municipality
 11 for all public utilities except qualified wholesale electric companies, as defined in s.

12 76.28 (1) (gm), and except wholesale merchant plants, as defined in s. ~~76.28 (1) (a)~~
 13 or according to the value as reported to the department of revenue under par. (a) of
 14 the production plant within each municipality for each qualified wholesale electric
 15 company. The payment to each municipality under this subdivision shall be no less
 16 than \$15,000 annually.

SECTION 11. 79.04 (2) (a) of the statutes is amended to read:

18 79.04 (2) (a) Annually, the department of administration, upon certification by
 19 the department of revenue, shall distribute from the shared revenue account to any
 20 county having within its boundaries a production plant or a general structure,
 21 including production plants and general structures under construction, used by a
 22 light, heat or power company assessed under s. 76.28 (2), except property described
 23 in s. 66.069 (2) unless the production plant is owned or operated by a local
 24 governmental unit that is located outside of the municipality in which the production
 25 plant is located, or by an electric cooperative assessed under ss. 76.07 and 76.48,

196.491(1)(w)

BILL

1 respectively, or by a municipal electric company under s. 66.073 an amount
 2 determined by multiplying by 6 mills in the case of property in a town and by 3 mills
 3 in the case of property in a city or village the first \$125,000,000 of the amount shown
 4 in the account, plus leased property, of each public utility except qualified wholesale
 5 electric companies, as defined in s. 76.28 (1) (gm), and except wholesale merchant
 6 plants, as defined in s. ~~76.28 (1) (w)~~ ^{196.491(1)(w)}, on December 31 of the preceding year for either
 7 "production plant, exclusive of land" and "general structures", or "work in progress"
 8 for production plants and general structures under construction, in the case of light,
 9 heat and power companies, electric cooperatives or municipal electric companies, for
 10 all property within the municipality in accordance with the system of accounts
 11 established by the public service commission or rural electrification administration,
 12 less depreciation thereon as determined by the department of revenue and less the
 13 value of treatment plant and pollution abatement equipment, as defined under s.
 14 70.11 (21) (a), as determined by the department of revenue plus an amount from the
 15 shared revenue account determined by multiplying by 6 mills in the case of property
 16 in a town, and 3 mills in the case of property in a city or village, of the total original
 17 cost of production plant, general structures and work-in-progress less depreciation,
 18 land and approved waste treatment facilities of each qualified wholesale electric
 19 company, as defined in s. 76.28 (1) (gm), and each wholesale merchant plant, as
 20 defined in s. ~~76.28 (1) (w)~~, as reported to the department of revenue of all property
 21 within the municipality. The total of amounts, as depreciated, from the accounts of
 22 all public utilities for the same production plant is also limited to not more than
 23 \$125,000,000. The amount distributable to a county in any year shall not exceed
 24 \$100 times the population of the county.

196.491(1)(w)

SECTION 12. Initial applicability.

BILL

1

(1) This act first applies to the license fee assessments as of May 1, 2001.

2

(END)

Insert A

→ 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 this bill, in lieu of paying local property taxes, a wholesale merchant plant pays a license fee to the state based, in part, on multiplying its gross revenues by 3.19 percent. Under current law, a wholesale merchant plant is an electric generating plant located in this state that does not provide service to retail customers.~~

→ 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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TO INSERT
A

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76
SECTION 1. ~~76~~.29 of the statutes is created to read:

① § 76

~~76~~.29 License fee for selling electricity at wholesale. (1) DEFINITIONS.

In this section:

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

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

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

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

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

ending with the assessment on May 1, 2009,

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

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

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

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

15 SECTION 2. 76.48 (1r) of the statutes is amended to read:

16 76.48 (1r) ~~Every~~ Except as provided in s. 76.29, every electric cooperative shall
17 pay, in lieu of other general property and income or franchise taxes, an annual license
18 fee equal to its apportionment factor multiplied by its gross revenues multiplied by
19 3.19%. Real estate and personal property not used primarily for the purpose of
20 generating, transmitting or distributing electric energy are subject to general
21 property taxes. If a general structure is used in part to generate, transmit or
22 distribute electric energy and in part for nonoperating purposes, the license fee
23 imposed by this section is in place of the percentage of all other general property
24 taxes that fairly measures and represents the extent of the use in generating,
25 transmitting or distributing electric energy, and the balance is subject to local

excluding gross revenues under s. 76.29

- 1 assessment and taxation, except that the entire general structure is subject to
- 2 special assessments for local improvements.

INSERT 1 TO INSERT A

Under current law, the property of a qualified wholesale electric company ^{located in a municipality} is excluded from the calculation of ~~an~~ the municipality's shared revenue payments from the state. Under ^{the} ~~this~~ 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.

FEB 0 8 2000

NOTE: PLEASE RETURN THIS BILL DRAFT AND THIS TRANSMITTAL SHEET WITH YOUR FISCAL ESTIMATE FORMS

IF THERE IS A FISCAL EFFECT TO THE BILL, PLEASE SUBMIT THE FISCAL ESTIMATE WORKSHEET.

TO: Eng Braun
Department of Revenue

FROM: Deborah Uecker
Division of Executive Budget and Finance
101 East Wilson Street
Administration Building, 10th Floor
Madison, WI 53707

SUBJECT: Fiscal Estimate - LRB Number 4483/1
1999 Bill Number

un-introduced
copy to
Senator Wirth
02-18-2000

Please provide the necessary information on fiscal estimate forms and return the original AND one copy of the original to Deborah Uecker, no later than:

15-Feb-00

If you cannot comply with the above deadline for any reason, please call Deborah at 267-0371.

Provide local government costs.

_____ is responsible for local government costs.

ALSO SENT TO:

Department of Revenue

DATE DOA SENT TO AGENCY:

08-Feb-00

DATE DOA RECEIVED FROM AGENCY:

2/17/00

TO BE COMPLETED BY AGENCY:

Name and phone number of person who prepared the fiscal estimate.

Daniel P. Huegel
(Name)

266-5705
(Phone Number)

PLEASE SEND ORIGINAL COPIES OF THE FORMS THAT CAN BE REPRODUCED.

FISCAL ESTIMATE FORM

1999 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB # 99-4483/1

INTRODUCTION #

Admin. Rule #

Subject

License Fee for Wholesale Merchant Electric Plants

Fiscal Effect

State: No State Fiscal Effect
 Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

- Increase Costs - May be Possible to Absorb Within Agency's Budget Yes No
 Decrease Costs

Local: No Local Government Costs

1. Increase Costs
 Permissive Mandatory
 2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate:

The bill affects state utility tax collections and state shared revenues, as discussed below:

State utility taxes

Under current law, a "wholesale merchant plant" is defined as an electric generating station located in Wisconsin that does not sell power at retail to end users and that is owned by either an affiliate of a public utility or by a company that is not a utility. In addition, such plants are classified as "qualified wholesale electric companies" and taxed under the state utility tax at 3.19% of their gross revenues.

Under the bill, wholesale merchant plants which, after December 31, 1999, are either approved by the Public Service Commission or granted a certificate of public convenience and necessity by the PSC would be classified for state utility tax purposes as a "wholesale merchant plant" and taxed at 1.59% of their gross revenue, or at about 50% of the 3.19% rate under current law.

No electric generating plants in Wisconsin would now qualify as a "wholesale merchant plant" as defined under the bill. There is therefore no fiscal effect at this time.

The potential loss in state tax revenues engendered by this bill depends on how many "wholesale merchant plants" are constructed in the state, their level of power sales, and the extent to which current generating capacity is replaced by merchant plants. Based on information for current non-utility generators in the state and from proposals for merchant plants, the bill could reduce annual state utility tax collections by \$3 to \$4 million for every 1,000 megawatts (MW) of generating capacity.

Based on historic experience, about 2000MW to 4000MW of electric plant capacity is constructed in this state every 10 years. It is uncertain how much of this capacity will be provided by merchant plants, but

(continued on page two)

Long-Range Fiscal Implications:

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
Wisconsin Department of Revenue	Yeang-Eng Braun	2/15/2000
Daniel P. Huegel, (608) 266-5705	(608) 266-2700	

assuming that this increased capacity is provided by merchant plants, and that the capacity of merchant plants in the state by 2010 is 2000MW, the bill could potentially reduce state revenues by \$6 to \$8 million annually (2000MW at \$3 to \$4 million per 1000MW). If the capacity of merchant plants in the state by 2010 is 4000 MW, the bill could potentially reduce state revenues by \$12 to \$16 million (4000MW at \$3 to \$4 million per 1000MW).

State shared revenues

Under the shared revenues utility payment, a total of 9 mills is paid on the net book value of certain utility property, including "qualified wholesale electric company" plant. If the property is located in a town, the town receives 3 mills and the county 6 mills. If the property is located in a village or city, the village or city receives 6 mills and the county 3 mills. The utility payment is funded out of the appropriation for shared revenues.

Under the bill, municipalities and counties with generating plants defined as "wholesale merchant plants" for state utility tax purposes would qualify for a shared revenue utility payment on the same basis as other qualifying utility property.

YOB 2/15/2000

FISCAL ESTIMATE WORKSHEET

Detailed Estimate of Annual Fiscal Effect

1999 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB # 99-4483/1
INTRODUCTION #

Admin. Rule #

Subject
License Fee for Wholesale Merchant Electric Plants

I. One-Time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations - Salaries and Fringe	\$ -	\$ -
(FTE Position Changes)	(FTE)	(- FTE)
State Operations-Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs by Category	\$ -	\$ -
B. State Costs by Source of Funds		
GPR	\$ -	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S		-
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$ -	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
TOTAL State Revenues	\$ -	\$ -

NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ _____	\$ _____
NET CHANGE IN REVENUES	\$ see text of fiscal note	\$ _____

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
Wisconsin Department of Revenue Daniel P. Huegel, (608) 266-5705	Yeang-Eng Braun <i>Yeang Eng Braun</i> (608) 266-2700	2/15/2000