

**2001 ASSEMBLY BILL 253**

March 26, 2001 – Introduced by Representatives HOVEN, ZIEGELBAUER, REYNOLDS, AINSWORTH, ALBERS, DUFF, FREESE, GROTHMAN, GUNDERSON, GUNDRUM, HAHN, HUEBSCH, HUNDERTMARK, JENSEN, JESKEWITZ, JOHNSRUD, KESTELL, KREIBICH, LADWIG, F. LASEE, M. LEHMAN, LEIBHAM, D. MEYER, MONTGOMERY, MUSSER, NASS, OLSEN, OWENS, PETTIS, POWERS, SKINDRUD, STARZYK, STONE, TOWNSEND, URBAN, VRAKAS, WALKER, WARD and J. FITZGERALD, cosponsored by Senators ZIEN, DARLING, ELLIS, S. FITZGERALD, HARSDORF, HUELSMAN, ROESSLER, SCHULTZ and WELCH. Referred to Committee on Energy and Utilities.

1     **AN ACT to repeal** 16.957 (1) (c), 16.957 (1) (h), 16.957 (1) (n), 16.957 (1) (o), 16.957  
2     (1) (p), 16.957 (1) (s), 16.957 (1) (u), 16.957 (1) (v), 16.957 (1) (w), 16.957 (1) (x),  
3     16.957 (2) (a) 1., 2., 3. and 4., 16.957 (2) (c) 5., 16.957 (2) (d) 1., 16.957 (2) (d) 3.,  
4     16.957 (4), 16.957 (5), 76.28 (1) (eg), 76.28 (1) (gr), 76.48 (1g) (dm), 76.48 (1g)  
5     (fm) and 77.54 (44); **to renumber and amend** 16.957 (2) (a) (intro.); **to amend**  
6     16.957 (2) (b) 2., 16.957 (2) (c) 1., 16.957 (2) (c) 4., 25.96, 76.28 (1) (d), 76.48 (1g)  
7     (d), 196.374 (1) (c), 196.374 (3) and 196.374 (4); and **to create** 16.957 (1) (he),  
8     (hm), (hp) and (hs), 16.957 (2) (d) 5. and 6. and 196.374 (3m) of the statutes;  
9     **relating to:** eliminating utility public benefits fees and commitment to  
10     community programs.

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

Under current law, the department of administration (DOA) is required to establish programs for providing energy assistance to low-income households (low-income programs), for conservation and efficiency services (conservation programs), and for encouraging the development and use of renewable energy resources (renewables programs). These programs are funded from three sources.

**ASSEMBLY BILL 253**

The first funding source consists of public benefits fees that DOA collects from nonmunicipal electric public utilities, which must charge the public benefits fees to their customers. Municipal electric public utilities and retail electric cooperatives (municipal utilities and cooperatives) are also required to charge a public benefits fee to their customers or members. Every three years, a municipal utility or cooperative may elect to contribute all or a specified portion of the public benefits fees to DOA for the programs. A municipal utility or cooperative that does not elect to contribute all of the public benefits fees to DOA must spend specified portions of the fees on its own “commitment to community programs,” which are defined as low-income assistance and conservation programs. DOA deposits all public benefits fees received from nonmunicipal electric public utilities, municipal utilities, and cooperatives into the utility public benefits fund.

The second funding source consists of contributions made by gas and electric utilities. Under current law, the public service commission (PSC) is required to determine the amount that a gas or electric utility spent on low-income, conservation, renewables, and environmental research and development programs in 1998. Each year, a gas or electric utility must spend a decreasing portion of the amount spent on each type of program and contribute an increasing portion of such amount to the PSC for deposit in the utility public benefits fund.

The third funding source consists of voluntary contributions made by customers of nonmunicipal electric public utilities and municipal utilities and members of cooperatives. The voluntary contributions are also deposited into the utility public benefits fund.

This bill eliminates the first funding source described above. Under the bill, nonmunicipal electric public utilities, municipal utilities, and cooperatives are not required to charge public benefits fees to their customers or members. In addition, the bill eliminates the requirement for municipal utilities and cooperatives to establish commitment to community programs.

The bill also makes changes to the second funding source described above. The bill requires DOA annually to submit a plan to the joint committee on finance (JCF) for adjusting the amount that electric utilities are required to contribute to the PSC for deposit into the utility public benefits fund. In the plan, DOA must compare the amount of funding received by the state in that year under the federal low-income home energy and weatherization assistance programs with the amount of funding received by the state in federal fiscal year 1999–2000 under those programs. If the amount received in that year is greater than the amount received in federal fiscal year 1999–2000, the plan must decrease the contributions that gas and electric utilities are required to make to the PSC for low-income programs by an amount equal to the difference. However, if the amount of the difference is equal to or greater than the contributions that the PSC has otherwise required electric utilities to make for low-income programs, then no contributions for low-income programs are required. DOA must implement a plan that is modified or approved by JCF.

**ASSEMBLY BILL 253**

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

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

1           **SECTION 1.** 16.957 (1) (c) of the statutes is repealed.

2           **SECTION 2.** 16.957 (1) (h) of the statutes is repealed.

3           **SECTION 3.** 16.957 (1) (he), (hm), (hp) and (hs) of the statutes are created to  
4 read:

5           16.957 **(1)** (he) “Federal base amount” means all moneys received from the  
6 federal government under 42 USC 8621 to 8629 in federal fiscal year 1999–2000 and  
7 under 42 USC 6861 to 6873 in federal program year 1999–2000.

8           (hm) “Federal fiscal year” means the period beginning on October 1 and ending  
9 on the following September 30.

10          (hp) “Federal funding amount” means all moneys received from the federal  
11 government under 42 USC 8621 to 8629 in a federal fiscal year after federal fiscal  
12 year 1999–2000 and under 42 USC 6861 to 6873 in the federal program year  
13 beginning in the same calendar year as the calendar year in which the federal fiscal  
14 year begins.

15          (hs) “Federal program year” means the period beginning on April 1 and ending  
16 on the following March 31.

17          **SECTION 4.** 16.957 (1) (n) of the statutes is repealed.

18          **SECTION 5.** 16.957 (1) (o) of the statutes is repealed.

19          **SECTION 6.** 16.957 (1) (p) of the statutes is repealed.

20          **SECTION 7.** 16.957 (1) (s) of the statutes is repealed.

21          **SECTION 8.** 16.957 (1) (u) of the statutes is repealed.

**ASSEMBLY BILL 253**

1           **SECTION 9.** 16.957 (1) (v) of the statutes is repealed.

2           **SECTION 10.** 16.957 (1) (w) of the statutes is repealed.

3           **SECTION 11.** 16.957 (1) (x) of the statutes is repealed.

4           **SECTION 12.** 16.957 (2) (a) (intro.) of the statutes is renumbered 16.957 (2) (a)  
5 and amended to read:

6           16.957 (2) (a) *Low-income programs.* After holding a hearing, establish  
7 programs to be administered by the department for awarding grants from the  
8 appropriation under s. 20.505 (10) (r) to provide low-income assistance. ~~In each~~  
9 ~~fiscal year, the amount awarded under this paragraph shall be sufficient to ensure~~  
10 ~~that an amount equal to 47% of the sum of the following is spent for weatherization~~  
11 ~~and other energy conservation services:~~

12           **SECTION 13.** 16.957 (2) (a) 1., 2., 3. and 4. of the statutes are repealed.

13           **SECTION 14.** 16.957 (2) (b) 2. of the statutes is amended to read:

14           16.957 (2) (b) 2. For each fiscal year after fiscal year 2003–04, determine  
15 whether to continue, discontinue, or reduce any of the programs established under  
16 subd. 1. and determine the total amount necessary to fund the programs that the  
17 department determines to continue or reduce under this subdivision. The  
18 department shall notify the commission if the department determines under this  
19 subdivision to reduce funding ~~by an amount that is greater than the portion of the~~  
20 ~~public benefits fee specified in sub. (4) (c) 2.~~ The notice shall specify the portion of  
21 the reduction that exceeds the amount of public benefits fees specified in sub. (4) (c)  
22 2.

23           **SECTION 15.** 16.957 (2) (c) 1. of the statutes is amended to read:

24           16.957 (2) (c) 1. Eligibility requirements for low-income assistance under  
25 programs established under par. (a). The rules shall prohibit a person ~~who receives~~

**ASSEMBLY BILL 253**

1 ~~low-income assistance from a municipal utility or retail electric cooperative under~~  
2 ~~a program specified in sub. (5) (d) 2. b. or 3. a. from receiving low-income assistance~~  
3 ~~under programs established under par. (a) unless the person is a customer of a utility,~~  
4 ~~as defined in s. 196.374 (1) (c), that makes a contribution to the commission under~~  
5 ~~s. 196.374 (3) for deposit in the utility public benefits fund.~~

6 **SECTION 16.** 16.957 (2) (c) 4. of the statutes is amended to read:

7 16.957 (2) (c) 4. Requirements for electric utilities, other than municipal  
8 utilities, to allow customers to include voluntary contributions to assist in funding  
9 a program established under par. (a) or (b) 1. with bill payments for electric service.  
10 The rules may require an electric utility to provide a space on an electric bill in which  
11 a customer may indicate the amount of a voluntary contribution and the customer's  
12 preference regarding whether a contribution should be used for a program  
13 established under par. (a) or (b) 1. a. or b. The rules shall establish requirements and  
14 procedures for electric utilities to pay to the department any voluntary contributions  
15 included with bill payments and to report to the department customer preferences  
16 regarding use of the contributions. The department shall deposit all contributions  
17 received under this ~~paragraph~~ subdivision in the utility public benefits fund.

18 **SECTION 17.** 16.957 (2) (c) 5. of the statutes is repealed.

19 **SECTION 18.** 16.957 (2) (d) 1. of the statutes is repealed.

20 **SECTION 19.** 16.957 (2) (d) 3. of the statutes is repealed.

21 **SECTION 20.** 16.957 (2) (d) 5. and 6. of the statutes are created to read:

22 16.957 (2) (d) 5. Annually submit to the joint committee on finance a plan for  
23 adjusting the amount that utilities are required to contribute to the commission  
24 under s. 196.374 (3) based on the amount of moneys received from the federal  
25 government under 42 USC 6881 to 6873 and 42 USC 8621 to 8629. A plan under this

**ASSEMBLY BILL 253**

1 subdivision shall require the department to determine the difference between the  
2 federal base amount and the federal funding amount for each federal fiscal year after  
3 federal fiscal year 1999–2000 and, if the federal funding amount is greater than the  
4 federal base amount, require the commission to decrease the contributions that  
5 utilities are required to make to the commission for low–income assistance under s.  
6 196.374 (3) in the calendar year following the start of the federal fiscal year by an  
7 amount equal to the difference between the federal funding amount and the federal  
8 base amount, except that if the difference is equal to or greater than the  
9 contributions that are otherwise required for low–income assistance under s.  
10 196.374 (3), no contributions shall be required for low–income assistance.

11 6. Implement a plan specified in subd. 5. that is approved or modified by the  
12 joint committee on finance.

13 **SECTION 21.** 16.957 (4) of the statutes is repealed.

14 **SECTION 22.** 16.957 (5) of the statutes is repealed.

15 **SECTION 23.** 25.96 of the statutes is amended to read:

16 **25.96 Utility public benefits fund.** There is established a separate  
17 nonlapsible trust fund designated as the utility public benefits fund, consisting of  
18 deposits by the public service commission under s. 196.374 (3), ~~public benefits fees~~  
19 ~~received under s. 16.957 (4) (a) and (5) (c) and (d)~~ and contributions received under  
20 s. 16.957 (2) (c) 4. and (d) 2.

21 **SECTION 24.** 76.28 (1) (d) of the statutes is amended to read:

22 76.28 (1) (d) “Gross revenues” for a light, heat, and power company other than  
23 a qualified wholesale electric company or a transmission company means total  
24 operating revenues as reported to the public service commission except revenues for  
25 interdepartmental sales and for interdepartmental rents as reported to the public

**ASSEMBLY BILL 253**

1 service commission and deductions from the sales and use tax under s. 77.61 (4),  
2 except that the company may subtract from revenues either the actual cost of power  
3 purchased for resale, as reported to the public service commission, by a light, heat,  
4 and power company, except a municipal light, heat, and power company, that  
5 purchases under federal or state approved wholesale rates more than 50% of its  
6 electric power from a person other than an affiliated interest, as defined in s. 196.52  
7 (1), if the revenue from that purchased electric power is included in the seller's gross  
8 revenues or the following percentages of the actual cost of power purchased for  
9 resale, as reported to the public service commission, by a light, heat, and power  
10 company, except a municipal light, heat and power company that purchases more  
11 than 90% of its power and that has less than \$50,000,000 of gross revenues: 10% for  
12 the fee assessed on May 1, 1988, 30% for the fee assessed on May 1, 1989, and 50%  
13 for the fee assessed on May 1, 1990, and thereafter. For a qualified wholesale electric  
14 company, "gross revenues" means total business revenues from those businesses  
15 included under par. (e) 1. to 4. For a transmission company, "gross revenues" means  
16 total operating revenues as reported to the public service commission, except  
17 revenues for transmission service that is provided to a public utility that is subject  
18 to the license fee under sub. (2) (d), to a public utility, as defined in s. 196.01 (5), or  
19 to a cooperative association organized under ch. 185 for the purpose of providing  
20 electricity to its members only. ~~For an electric utility, as defined in s. 16.957 (1) (g),~~  
21 ~~"gross revenues" does not include public benefits fees collected by the electric utility~~  
22 ~~under s. 16.957 (4) (a) or (5) (a).~~ For a generator public utility, "gross revenues" does  
23 not include any grants awarded to the generator public utility under s. 16.958 (2) (b).  
24 ~~For a wholesale supplier, as defined in s. 16.957 (1) (w), "gross revenues" does not~~  
25 ~~include any public benefits fees that are received from a municipal utility or retail~~

**ASSEMBLY BILL 253**

1 ~~electric cooperative or under a joint program established under s. 16.957 (5) (f). For~~  
2 ~~a municipal utility, “gross revenues” does not include public benefits fees received by~~  
3 ~~the municipal utility from a municipal utility or retail electric cooperative under a~~  
4 ~~joint program established under s. 16.957 (5) (f).~~

5 **SECTION 25.** 76.28 (1) (eg) of the statutes is repealed.

6 **SECTION 26.** 76.28 (1) (gr) of the statutes is repealed.

7 **SECTION 27.** 76.48 (1g) (d) of the statutes is amended to read:

8 76.48 **(1g)** (d) “Gross revenues” means total operating revenues, except  
9 revenues for interdepartmental sales and for interdepartmental rents, less  
10 deductions from the sales and use tax under s. 77.61 (4) and, in respect to any electric  
11 cooperative that purchases more than 50% of the power it sells, less the actual cost  
12 of power purchased for resale by an electric cooperative, if the revenue from that  
13 purchased electric power is included in the seller’s gross revenues or if the electric  
14 cooperative purchased more than 50% of the power it sold in the year prior to  
15 January 1, 1988, from a seller located outside this state. For an electric cooperative,  
16 “gross revenues” does not include grants awarded to the electric cooperative under  
17 s. 16.958 (2) (b). ~~For a retail electric cooperative, “gross revenues” does not include~~  
18 ~~public benefits fees collected by the retail electric cooperative under s. 16.957 (5) (a),~~  
19 ~~public benefits fees received by the retail electric cooperative from a retail electric~~  
20 ~~cooperative or municipal utility under a joint program established under s. 16.957~~  
21 ~~(5) (f). For a wholesale supplier, as defined in s. 16.957 (1) (w), “gross revenues” does~~  
22 ~~not include any public benefits fees that are received from a municipal utility, as~~  
23 ~~defined in s. 16.957 (1) (q), or retail electric cooperative or under a joint program~~  
24 ~~established under s. 16.957 (5) (f).~~

25 **SECTION 28.** 76.48 (1g) (dm) of the statutes is repealed.



**ASSEMBLY BILL 253**

1           **SECTION 29.** 76.48 (1g) (fm) of the statutes is repealed.

2           **SECTION 30.** 77.54 (44) of the statutes is repealed.

3           **SECTION 31.** 196.374 (1) (c) of the statutes is amended to read:

4           196.374 (1) (c) “Utility” means a Class A gas or electric utility, as defined by the  
5           commission, but does not include a municipal utility, as defined in s. 16.957 (1) (q),  
6           a municipal electric company, as defined in s. ~~66.073 (3) (d)~~ [ s. 66.0825 (3) (d) ], or a  
7           cooperative association organized under ch. 185.

8           **SECTION 32.** 196.374 (3) of the statutes is amended to read:

9           196.374 (3) ~~In Subject to sub. (3m), in~~ 2000, 2001, and 2002, the commission  
10          shall require each utility to spend a decreasing portion of the amount determined  
11          under sub. (2) on programs specified in sub. (2) and contribute the remaining portion  
12          of the amount to the commission for deposit in the fund. In each year after 2002, each  
13          utility shall contribute the entire amount determined under sub. (2) to the  
14          commission for deposit in the fund. The commission shall ensure in rate-making  
15          orders that a utility recovers from its ratepayers the amounts spent on programs or  
16          contributed to the fund under this subsection. The commission shall allow each  
17          utility the option of continuing to use, until January 1, 2002, the moneys that it has  
18          recovered under s. 196.374 (3), 1997 stats., to administer the programs that it has  
19          funded under s. 196.374 (1), 1997 stats. The commission may allow each utility to  
20          spend additional moneys on the programs specified in sub. (2) if the utility otherwise  
21          complies with the requirements of this section ~~and s. 16.957 (4)~~.

22          **SECTION 33.** 196.374 (3m) of the statutes is created to read:

23          196.374 (3m) The commission shall adjust the amount that a utility is required  
24          to contribute to the commission under sub. (3) as required under a plan that is  
25          implemented by the department under s. 16.957 (2) (d) 6.

