

2001 DRAFTING REQUEST

Bill

Received: 11/27/2000

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Ziegelbauer (608) 266-0315**

By/Representing: **Tom Kelly**

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

Drafter: **kunkemd**

May Contact:

Addl. Drafters:

Subject: **Public Util. - energy**
Public Util. - misc.

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Repeal utility public benefits program and funding

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>
/1	kunkemd 03/08/2001	jdyer 03/09/2001	jfrantze 03/09/2001	_____	lrb_docadmin 03/09/2001		S&L
	kunkemd 03/10/2001	hhagen 03/12/2001		_____			
/2			martykr 03/12/2001	_____	lrb_docadmin 03/12/2001	lrb_docadminS&L 03/22/2001	

FE Sent For:

<END>

2001 DRAFTING REQUEST

Bill

Received: **11/27/2000**

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Ziegelbauer (608) 266-0315**

By/Representing: **Tom Kelly**

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

Drafter: **kunkemd**

May Contact:

Alt. Drafters:

Subject: **Public Util. - energy**
Public Util. - misc.

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Repeal utility public benefits program and funding

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>
/1	kunkemd 03/08/2001	jdyer 03/09/2001	jfrantze 03/09/2001	_____	lrb_docadmin 03/09/2001		S&L
	kunkemd 03/10/2001	hhagen 03/12/2001		_____			
/2			martykr 03/12/2001	_____	lrb_docadmin 03/12/2001		S&L

FE Sent For:

<END>

2001 DRAFTING REQUEST

Bill

Received: 11/27/2000

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Ziegelbauer (608) 266-0315**

By/Representing: **Tom Kelly**

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

Drafter: **kunkemd**

May Contact:

Addl. Drafters:

Subject: **Public Util. - energy**
Public Util. - misc.

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Repeal utility public benefits program and funding

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>
/1	kunkemd 03/08/2001	jdye 03/09/2001	jfrantze 03/09/2001	_____	lrb_docadmin 03/09/2001*		S&L

*12 hmt
3/12/01* *Jm 3
12* *J 3
Jm 12*

FE Sent For:

<END>

2001 DRAFTING REQUEST

Bill

Received: 11/27/2000

Received By: kunkemd

Wanted: As time permits

Identical to LRB:

For: Robert Ziegelbauer (608) 266-0315

By/Representing: Tom Kelly

This file may be shown to any legislator: NO

Drafter: kunkemd

May Contact:

Alt. Drafters:

Subject: Public Util. - energy
Public Util. - misc.

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Repeal utility public benefits program and funding

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>
/?	kunkemd	1 3/4 jw	2/3/9	2/6/9 3/9			

FE Sent For:

<END>

LEGISLATIVE REFERENCE BUREAU

BILL REQUEST FORM

MDK

Legal Section, 5th Floor, 100 N. Hamilton St.
(608) 266-3561

-1197

Use of this form is optional. It is often helpful to talk directly with the LRB attorney who will draft the bill.
Use this form only for **BILL** drafts. Attach more pages if necessary.

Date of request: 11-22-00	Legislator or agency requesting this draft: Rep. Ziegelbauer
Name/phone number of person submitting request: Tom Kelly / 266-0315	
Persons to contact for questions about this draft (names and phone numbers please): Bob Ziegelbauer / (920) 684-6783 Tom Kelly or Luanne Kostelic / 266-0315	
Describe the problem, including any helpful examples. How do you want to solve the problem? Rep. Ziegelbauer would like to introduce a bill that would repeal the Wisconsin Public Benefits Programs and the funding mechanism included in the Reliability 2000 legislation contained within the last biennial budget.	
If you know of any statute sections that might be affected, please list them or provide a marked (not re-typed) copy. s. 16.957	

Please attach a copy of any correspondence or material that may help us. You may also attach a marked (not re-typed) copy of any LRB draft, or provide its number (e.g., 1997 LRB-2345/1 or 1995 AB-67):

Requests are confidential unless stated otherwise.

May we tell others that we are working on this for you? YES NO

If yes, anyone who asks? YES NO

Any legislator? YES NO ONLY the following persons:

Do you consider this urgent? YES NO If yes, please indicate why:

Is this request of higher priority than other pending request(s) you have made?

YES NO If yes, please sign your name here:



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1197/1

MDK:.....

D-NOTE

J

SOON

2001 BILL

LPS - please check
auto refs

1 AN ACT ^{gen}...; relating to: low-income energy assistance, energy conservation and
 2 efficiency, renewable energy resources, and commitment to community
 3 programs, public benefits fees, and nitrogen oxide emission reductions.

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, for conservation and efficiency services, and for encouraging the development and use of renewable energy resources. These programs are funded from public benefits fees that DOA collects from nonmunicipal electric public utilities, which must charge the public benefits fees to their customers.

Current law also requires municipal electric public utilities and retail electric cooperatives (municipal utilities and cooperatives) to charge a public benefits fee to their customers or members. A municipal utility or cooperative must 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 energy assistance and energy conservation programs. DOA deposits all public benefits fees received from nonmunicipal electric public utilities, municipal utilities, and cooperatives into the utility public benefits fund. In addition, DOA must encourage customers and members of nonmunicipal electric public utilities, municipal utilities, and cooperatives to make voluntary contributions for the programs that DOA

BILL

establishes. The voluntary contributions are also deposited into the utility public benefits fund.

The programs that DOA[✓] establishes are also funded by contributions that are required to be made by gas and electric utilities (required contributions).[✓] Under current law, the public service commission[✓] (PSC) is required to determine the amount that a gas or electric utility spent on low-income energy assistance, energy conservation, renewable energy resources, 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 make an increasing portion of such amount as a required contribution[✓] to the PSC for deposit in the utility public benefits fund.

This bill eliminates the requirements for DOA to establish the programs described above and for municipal utilities and cooperatives to establish commitment to community programs. Under the bill, ~~nonmunicipal electric public utilities, municipal utilities, and cooperatives must refund to their customers and members any public benefits fees and voluntary contributions that they have not yet paid to DOA.~~ ³

The bill also transfers the unencumbered balance in the utility public benefits fund to the general fund. Of the amount that is transferred, the PSC must determine how much is attributable to required contributions by each electric and gas utility and pay that amount to the electric and gas utility. The bill requires electric and gas utilities to spend at least 0.5% of their total annual operating revenues on programs designed to promote and accomplish energy conservation. However, the PSC may require them to spend a lesser or greater percentage if, after a hearing, the PSC finds such spending in the public interest. An electric or gas utility may use the amount that it is paid by PSC under the bill only for spending on energy conservation programs.

* Also^g under the bill, from the general fund, DOA must pay to electric public utilities, municipal utilities, and cooperatives an amount equal to the difference between: 1) the unencumbered balance in the utility public benefits fund that is transferred to the general fund, and 2) the amount described above that the PSC determines is attributable to required contributions by electric and gas utilities. The amount that is paid to each electric public utility, municipal utility, and cooperative is based on its percentage of the total deposits of public benefits fees and voluntary contributions into the utility public benefits fund.

Finally, under current law, certain provisions apply only if the department of natural resources (DNR)[✓] is required under the federal Clean Air Act[✓] to issue a state implementation plan for the control of atmospheric ozone in another state that requires electric generating facilities in the western portion of the state to reduce nitrogen oxide emissions. The provisions include requirements for each of the following: 1) limiting the amount of reductions that DNR may require for different types of nonutility and mobile air emissions sources and electric generating facilities in different portions of the state; 2) establishing an air quality improvement fund from which DOA makes grants to electric providers in the western portion of the state for complying with the reductions; 3) requiring the PSC to make assessments

BILL

against electric utility affiliates of holding companies in the eastern portion of the state; and 4) requiring the PSC to deposit any such assessments into the air quality improvement fund. DNR has not been required to issue the state implementation plan described above and this bill eliminates all of the foregoing provisions.

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

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

1 SECTION 1. 16.957 of the statutes is repealed.

2 SECTION 2. 16.958 of the statutes is repealed.

3 SECTION 3. 20.155 (1) (a) of the statutes is created to read:

4 20.155 (1) (a) *Utility contribution refunds.* A sum sufficient equal to the
5 aggregate amount that the commission has determined for all utilities under 2001
6 Wisconsin Act (this act), section 25 (3) (a), for the purpose of making payments to
7 utilities under 2001 Wisconsin Act (this act), section 25 (3) (b).

8 SECTION 4. 20.505 (10) (a) of the statutes is created to read:

9 20.505 (10) (a) *Public benefits fee and contribution refunds.* A sum sufficient
10 equal to the difference between the amount transferred to the general fund under
11 2001 Wisconsin Act (this act), section 26 (1), and the aggregate amount that the
12 commission has determined for all utilities under 2001 Wisconsin Act (this act),
13 section 25 (3) (a), for the purpose of making payments to electric utilities, municipal
14 utilities, and retail electric cooperatives under 2001 Wisconsin Act (this act),
15 section 25 (2) (b).

16 SECTION 5. 20.505 (10) (q), (r) and (s) of the statutes are repealed.

17 SECTION 6. 20.505 (11) of the statutes is repealed.

18 SECTION 7. 25.17 (1) (ai) of the statutes is repealed.

19 SECTION 8. 25.17 (1) (xm) of the statutes is repealed.

BILL

1 **SECTION 9.** 25.96[✓] of the statutes is repealed.

2 **SECTION 10.** 25.97[✓] of the statutes is repealed.

3 **SECTION 11.** 76.28 (1) (d) of the statutes is amended to read:

4 76.28 (1) (d) "Gross revenues" for a light, heat and power company other than
5 a qualified wholesale electric company or a transmission company means total
6 operating revenues as reported to the public service commission except revenues for
7 interdepartmental sales and for interdepartmental rents as reported to the public
8 service commission and deductions from the sales and use tax under s. 77.61 (4),
9 except that the company may subtract from revenues either the actual cost of power
10 purchased for resale, as reported to the public service commission, by a light, heat
11 and power company, except a municipal light, heat and power company, that
12 purchases under federal or state approved wholesale rates more than 50% of its
13 electric power from a person other than an affiliated interest, as defined in s. 196.52
14 (1), if the revenue from that purchased electric power is included in the seller's gross
15 revenues or the following percentages of the actual cost of power purchased for
16 resale, as reported to the public service commission, by a light, heat and power
17 company, except a municipal light, heat and power company that purchases more
18 than 90% of its power and that has less than \$50,000,000 of gross revenues: 10% for
19 the fee assessed on May 1, 1988, 30% for the fee assessed on May 1, 1989, and 50%
20 for the fee assessed on May 1, 1990, and thereafter. For a qualified wholesale electric
21 company, "gross revenues" means total business revenues from those businesses
22 included under par. (e) 1. to 4. For a transmission company, "gross revenues" means
23 total operating revenues as reported to the public service commission, except
24 revenues for transmission service that is provided to a public utility that is subject
25 to the license fee under sub. (2) (d), to a public utility, as defined in s. 196.01 (5), or

BILL

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

History: 1983 a. 27, 405; 1985 a. 29, 120; 1987 a. 27; 1993 a. 205; 1995 a. 27, 351; 1997 a. 35; 1999 a. 9; 1999 a. 150 s. 672.

12 **SECTION 12.** 76.28 (1) (eg) of the statutes is repealed.

13 **SECTION 13.** 76.28 (1) (gr) of the statutes is repealed.

14 **SECTION 14.** 76.48 (1g) (d) of the statutes is amended to read:

15 76.48 (1g) (d) “Gross revenues” means total operating revenues, except
 16 revenues for interdepartmental sales and for interdepartmental rents, less
 17 deductions from the sales and use tax under s. 77.61 (4) and, in respect to any electric
 18 cooperative that purchases more than 50% of the power it sells, less the actual cost
 19 of power purchased for resale by an electric cooperative, if the revenue from that
 20 purchased electric power is included in the seller’s gross revenues or if the electric
 21 cooperative purchased more than 50% of the power it sold in the year prior to
 22 January 1, 1988, from a seller located outside this state. ~~For an electric cooperative,~~
 23 ~~“gross revenues” does not include grants awarded to the electric cooperative under~~
 24 ~~s. 16.958 (2) (b).~~ ~~For a retail electric cooperative, “gross revenues” does not include~~

BILL

1 ~~public benefits fees collected by the retail electric cooperative under s. 16.957 (5) (a),~~
2 ~~public benefits fees received by the retail electric cooperative from a retail electric~~
3 ~~cooperative or municipal utility under a joint program established under s. 16.957~~
4 ~~(5) (f). For a wholesale supplier, as defined in s. 16.957 (1) (w), "gross revenues" does~~
5 ~~not include any public benefits fees that are received from a municipal utility, as~~
6 ~~defined in s. 16.957 (1) (q), or retail electric cooperative or under a joint program~~
7 ~~established under s. 16.957 (5) (f).~~

History: 1971 c. 125, 215; 1973 c. 12; 1975 c. 39, 224; 1977 c. 29, 142, 272, 418; 1979 c. 110 s. 60 (11), (13); 1979 c. 207; 1981 c. 20; 1983 a. 27; 1985 a. 120; 1987 a. 27, 399; 1991 a. 39; 1999 a. 9.

8 SECTION 15. 76.48 (1g) (dm) of the statutes is repealed.

9 SECTION 16. 76.48 (1g) (fm) of the statutes is repealed.

10 SECTION 17. 77.54 (44) of the statutes is repealed.

11 SECTION 18. 196.374 (1) of the statutes is repealed and recreated to read:

12 196.374 (1) In this section, "utility" means a class A gas or electric utility, as
13 defined by the commission.

14 SECTION 19. 196.374 (2) of the statutes is repealed and recreated to read:

15 196.374 (2) Except as provided in sub. (2g), each utility shall spend annually
16 at least 0.5% of its total annual operating revenues on programs designed to promote
17 and accomplish energy conservation.

18 SECTION 20. 196.374 (2g) of the statutes is created to read:

19 196.374 (2g) The commission may require a utility to spend annually under
20 sub. (2) an amount ^{that} ~~which~~ is more or less than 0.5% of its annual operating revenues
21 if, after notice and hearing, the commission finds that the expenditure of such
22 amount is in the public interest.

23 SECTION 21. 196.374 (2r) of the statutes is created to read:

BILL

1 196.374 (2r) The commission may prescribe all or part of any program that is
2 funded under sub. (2).[✓] The commission may require that a utility establish a
3 program funded under sub. (2) that is applicable only to a group of consumers,
4 including low-income utility customers, specified under guidelines established by
5 the commission if the commission determines that the group has special energy
6 conservation needs.

7 **SECTION 22.** 196.374 (3) and (4) of the statutes are repealed.[✓]

8 **SECTION 23.** 196.86[✓] of the statutes is repealed.

9 **SECTION 24.** 285.48[✓] of the statutes is repealed.

10 **SECTION 25. Nonstatutory provisions.**

11 (1) DEFINITIONS. In this SECTION:[✓]

12 (a) "Commission" means the public service commission.[✓]

13 (b) "Department" means the department of administration.[✓]

14 (c) "Electric utility" has the meaning given in section 16.957 (1) (g), 1999 stats.[✓]

15 (d) "Municipal utility" has the meaning given in section 16.957 (1) (q), 1999
16 stats.

17 (e) "Retail electric cooperative" has the meaning given in section 16.957 (1) (t),[✓]
18 1999 stats.

19 (f) "Utility" has the meaning given in section 196.374 (1) (c), 1999 stats.[✓]

20 (2) PUBLIC BENEFITS FEE AND CONTRIBUTION REFUNDS.[✓]

21 (a) Each electric utility, municipal utility, and retail electric cooperative that
22 has collected public benefits fees from customers or members under section 16.957
23 ^{1999 stats.} ~~(4) (a)~~ or ~~(5) (a)~~, ^{section 16.957} 1999 stats., or received contributions from customers or members

24 under section 16.957 (2) (c) 4. ^{1999 stats.} or ^{section 16.957 (2)} (d) 2., 1999 stats., and that has not paid the fees or
25 contributions to the department shall, no later than the first day of the 3rd month

BILL

SECTION 25

1 beginning after the effective date of this paragraph, refund the fees or contributions
2 to the customers or members.

3 (b) The department shall determine the percentage of public benefits fees and
4 contributions that each electric utility, municipal utility, and retail electric

5 cooperative has paid to the department under section 16.957 (4) (a) or (5) (a), 1999
6 stats., or section 16.957 (2) (c) 4. or (d) 2., 1999 stats. From the appropriation under
7 section 20.505 (10) (a) of the statutes, as created by this act, the department shall,

8 no later than the first day of the 3rd month beginning after the effective date of this
9 paragraph, pay to each electric utility, municipal utility, and retail electric

10 cooperative an amount equal to the percentage determined under this paragraph
11 multiplied by the difference between the amount transferred to the general fund

12 under SECTION 26 (1) of this act and the aggregate amount that the commission
13 has determined for all utilities under subsection (3) (a). No later than the first day

14 of the 6th month beginning after the effective date of this paragraph, each electric
15 utility, municipal utility, and retail electric cooperative shall refund to its customers

16 and members the amount that it is paid by the department under this paragraph.

17 (3) UTILITY CONTRIBUTION REFUNDS.

18 (a) The commission shall determine the amount transferred to the general fund

19 under SECTION 26 (1) that is attributable to contributions by each utility under
20 section 196.374 (3), 1999 stats.

21 (b) From the appropriation under section 20.155 (1) (a) of the statutes, as
22 created by this act, the commission shall, no later than the first day of the 3rd month

23 beginning after the effective date of this paragraph, pay to each utility the amount
24 that the commission has determined under paragraph (a) is attributable to the

25 utility. A utility that receives a payment under this paragraph may use the payment

BILL

1 only for purposes of complying with section 196.374 (2) of the statutes, as affected by
2 this act.

3 **SECTION 26. Appropriation changes.**

4 (1) UTILITY PUBLIC BENEFITS FUND. On the effective date of this subsection, the
5 unencumbered balance in the utility public benefits fund immediately prior to the
6 effective date of this subsection is transferred to the general fund.

7 (END)

D-note
↓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1197/1dn

MDK: ^.....

JL

Representative Ziegelbauer:

Please review this bill very carefully to make sure that it achieves your intent. In particular, please note the following:

1. I wasn't sure how you want to treat s. 196.374[✓], stats., which was substantially amended as part of the public benefits changes made in last session's budget. Therefore, the bill amends s. 196.374 so that it reverts back to the requirements before the public benefits changes were made. The numbering is not the same, but the substantive requirements are the same.

2. On a point related to item 1 above, I also assumed that you want to refund the contributions that electric and gas utilities have made to the utility public benefits fund. Also, I assumed that electric and gas utilities must use any money that is refunded to pay for conservation programs under s. 196.374, as amended by the ~~bill~~ ^{bill}. Note the the source of the refunds is the unencumbered balance in the utility public benefits fund. Therefore, the refunds won't affect any obligations that DOA has already incurred regarding the fund.

3. I also assumed that you want to refund the public benefits fees that have been deposited in the utility public benefits fund. Is this correct? Again, the source of the refunds is the unencumbered balance in the utility public benefits fund.

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1197/1dn
MDK:jld:jf

March 9, 2001

Representative Ziegelbauer:

Please review this bill very carefully to make sure that it achieves your intent. In particular, please note the following:

1. I wasn't sure how you want to treat s. 196.374, stats., which was substantially amended as part of the public benefits changes made in last session's budget. Therefore, the bill amends s. 196.374 so that it reverts back to the requirements before the public benefits changes were made. The numbering is not the same, but the substantive requirements are the same.
2. On a point related to item 1 above, I also assumed that you want to refund the contributions that electric and gas utilities have made to the utility public benefits fund. Also, I assumed that electric and gas utilities must use any money that is refunded to pay for conservation programs under s. 196.374, as amended by the bill. Note the the source of the refunds is the unencumbered balance in the utility public benefits fund. Therefore, the refunds won't affect any obligations that DOA has already incurred regarding the fund.
3. I also assumed that you want to refund the public benefits fees that have been deposited in the utility public benefits fund. Is this correct? Again, the source of the refunds is the unencumbered balance in the utility public benefits fund.

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

by 3/12
MONDAY
PM

2001 - 2002 LEGISLATURE

D-NOTE

2001 BILL

LRB-1197/1
MDK:jld:jf
ct/hmh
J

RM
NOT
RUN

Regenerate

1 AN ACT *to repeal* 16.957, 16.958, 20.505 (10) (q), (r) and (s), 20.505 (11), 25.17 (1)
2 (ai), 25.17 (1) (xm), 25.96, 25.97, 76.28 (1) (eg), 76.28 (1) (gr), 76.48 (1g) (dm),
3 76.48 (1g) (fm), 77.54 (44), 196.374 (3) and (4), 196.86 and 285.48; *to amend*
4 76.28 (1) (d) and 76.48 (1g) (d); *to repeal and recreate* 196.374 (1) and 196.374
5 (2); and *to create* 20.155 (1) (a), 20.505 (10) (a), 196.374 (2g) and 196.374 (2r)
6 of the statutes; **relating to:** low-income energy assistance, energy
7 conservation and efficiency, renewable energy resources, and commitment to
8 community programs, public benefits fees, and nitrogen oxide emission
9 reductions.

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, for conservation and efficiency services, and for encouraging the development and use of renewable energy resources. These programs are funded from public benefits fees that DOA collects from nonmunicipal electric public utilities, which must charge the public benefits fees to their customers.

Current law also requires municipal electric public utilities and retail electric cooperatives (municipal utilities and cooperatives) to charge a public benefits fee to

BILL

their customers or members. A municipal utility or cooperative must 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 energy assistance and energy conservation programs. DOA deposits all public benefits fees received from nonmunicipal electric public utilities, municipal utilities, and cooperatives into the utility public benefits fund. In addition, DOA must encourage customers and members of nonmunicipal electric public utilities, municipal utilities, and cooperatives to make voluntary contributions for the programs that DOA establishes. The voluntary contributions are also deposited into the utility public benefits fund.

The programs that DOA establishes are also funded by contributions that are required to be made by gas and electric utilities (required contributions). Under current law, the public service commission (PSC) is required to determine the amount that a gas or electric utility spent on low-income energy assistance, energy conservation, renewable energy resources, 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 make an increasing portion of such amount as a required contribution to the PSC for deposit in the utility public benefits fund.

This bill eliminates the requirements for DOA to establish the programs described above and for municipal utilities and cooperatives to establish commitment to community programs. Under the bill, nonmunicipal electric public utilities, municipal utilities, and cooperatives must refund to their customers and members any public benefits fees and voluntary contributions that they have not yet paid to DOA.

The bill also transfers the unencumbered balance in the utility public benefits fund to the general fund. Of the amount that is transferred, the PSC must determine how much is attributable to required contributions by each electric and gas utility and pay that amount to the electric and gas utility. The bill requires electric and gas utilities to spend at least 0.5% of their total annual operating revenues on programs designed to promote and accomplish energy conservation. However, the PSC may require them to spend a lesser or greater percentage if, after a hearing, the PSC finds such spending in the public interest. An electric or gas utility may use the amount that it is paid by PSC under the bill only for spending on energy conservation programs.

Also under the bill, from the general fund, DOA must pay to electric public utilities, municipal utilities, and cooperatives an amount equal to the difference between: 1) the unencumbered balance in the utility public benefits fund that is transferred to the general fund; and 2) the amount described above that the PSC determines is attributable to required contributions by electric and gas utilities. The amount that is paid to each electric public utility, municipal utility, and cooperative is based on its percentage of the total deposits of public benefits fees and voluntary contributions into the utility public benefits fund.

BILL

INSEAT 3-1

Finally, under current law, certain provisions apply only if the department of natural resources (DNR) is required under the federal Clean Air Act to issue a state implementation plan for the control of atmospheric ozone in another state that requires electric generating facilities in the western portion of the state to reduce nitrogen oxide emissions. The provisions include requirements for each of the following: 1) limiting the amount of reductions that DNR may require for different types of nonutility and mobile air emissions sources and electric generating facilities in different portions of the state; 2) establishing an air quality improvement fund from which DOA makes grants to electric providers in the western portion of the state for complying with the reductions; 3) requiring the PSC to make assessments against electric utility affiliates of holding companies in the eastern portion of the state; and 4) requiring the PSC to deposit any such assessments into the air quality improvement fund. DNR has not been required to issue the state implementation plan described above and this bill eliminates all of the foregoing provisions.

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

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

1 **SECTION 1.** 16.957 of the statutes is repealed.

2 **SECTION 2.** 16.958 of the statutes is repealed.

3 **SECTION 3.** 20.155 (1) (a) of the statutes is created to read:

4 20.155 (1) (a) *Utility contribution refunds.* A sum sufficient equal to the
5 aggregate amount that the commission has determined for all utilities under 2001
6 Wisconsin Act (this act), section 25 (3) (a), for the purpose of making payments to
7 utilities under 2001 Wisconsin Act (this act), section 25 (3) (b).

8 **SECTION 4.** 20.505 (10) (a) of the statutes is created to read:

9 20.505 (10) (a) *Public benefits fee and contribution refunds.* A sum sufficient
10 equal to the difference between the amount transferred to the general fund under
11 2001 Wisconsin Act (this act), section 26 (1), and the aggregate amount that the
12 commission has determined for all utilities under 2001 Wisconsin Act (this act),
13 section 25 (3) (a), for the purpose of making payments to electric utilities, municipal

BILL

1 utilities, and retail electric cooperatives under 2001 Wisconsin Act (this act),
2 section 25 (2) (b).

3 **SECTION 5.** 20.505 (10) (q), (r) and (s) of the statutes are repealed.

4 **SECTION 6.** 20.505 (11) of the statutes is repealed.

5 **SECTION 7.** 25.17 (1) (ai) of the statutes is repealed.

6 **SECTION 8.** 25.17 (1) (xm) of the statutes is repealed.

7 **SECTION 9.** 25.96 of the statutes is repealed.

8 **SECTION 10.** 25.97 of the statutes is repealed.

9 **SECTION 11.** 76.28 (1) (d) of the statutes is amended to read:

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

BILL

1 for the fee assessed on May 1, 1990, and thereafter. For a qualified wholesale electric
2 company, "gross revenues" means total business revenues from those businesses
3 included under par. (e) 1. to 4. For a transmission company, "gross revenues" means
4 total operating revenues as reported to the public service commission, except
5 revenues for transmission service that is provided to a public utility that is subject
6 to the license fee under sub. (2) (d), to a public utility, as defined in s. 196.01 (5), or
7 to a cooperative association organized under ch. 185 for the purpose of providing
8 electricity to its members only. ~~For an electric utility, as defined in s. 16.957 (1) (g),~~
9 ~~"gross revenues" does not include public benefits fees collected by the electric utility~~
10 ~~under s. 16.957 (4) (a) or (5) (a). For a generator public utility, "gross revenues" does~~
11 ~~not include any grants awarded to the generator public utility under s. 16.958 (2) (b).~~
12 ~~For a wholesale supplier, as defined in s. 16.957 (1) (w), "gross revenues" does not~~
13 ~~include any public benefits fees that are received from a municipal utility or retail~~
14 ~~electric cooperative or under a joint program established under s. 16.957 (5) (f). For~~
15 ~~a municipal utility, "gross revenues" does not include public benefits fees received by~~
16 ~~the municipal utility from a municipal utility or retail electric cooperative under a~~
17 ~~joint program established under s. 16.957 (5) (f).~~

18 **SECTION 12.** 76.28 (1) (eg) of the statutes is repealed.

19 **SECTION 13.** 76.28 (1) (gr) of the statutes is repealed.

20 **SECTION 14.** 76.48 (1g) (d) of the statutes is amended to read:

21 76.48 (1g) (d) "Gross revenues" means total operating revenues, except
22 revenues for interdepartmental sales and for interdepartmental rents, less
23 deductions from the sales and use tax under s. 77.61 (4) and, in respect to any electric
24 cooperative that purchases more than 50% of the power it sells, less the actual cost
25 of power purchased for resale by an electric cooperative, if the revenue from that

BILL

1 purchased electric power is included in the seller's gross revenues or if the electric
2 cooperative purchased more than 50% of the power it sold in the year prior to
3 January 1, 1988, from a seller located outside this state. ~~For an electric cooperative,~~
4 ~~“gross revenues” does not include grants awarded to the electric cooperative under~~
5 ~~s. 16.958 (2) (b). For a retail electric cooperative, “gross revenues” does not include~~
6 ~~public benefits fees collected by the retail electric cooperative under s. 16.957 (5) (a),~~
7 ~~public benefits fees received by the retail electric cooperative from a retail electric~~
8 ~~cooperative or municipal utility under a joint program established under s. 16.957~~
9 ~~(5) (f). For a wholesale supplier, as defined in s. 16.957 (1) (w), “gross revenues” does~~
10 ~~not include any public benefits fees that are received from a municipal utility, as~~
11 ~~defined in s. 16.957 (1) (q), or retail electric cooperative or under a joint program~~
12 ~~established under s. 16.957 (5) (f).~~

13 **SECTION 15.** 76.48 (1g) (dm) of the statutes is repealed.

14 **SECTION 16.** 76.48 (1g) (fm) of the statutes is repealed.

15 **SECTION 17.** 77.54 (44) of the statutes is repealed.

16 **SECTION 18.** 196.374 (1) of the statutes is repealed and recreated to read:

17 196.374 (1) In this section, “utility” means a Class A gas or electric utility, as
18 defined by the commission.

19 **SECTION 19.** 196.374 (2) of the statutes is repealed and recreated to read:

20 196.374 (2) Except as provided in sub. (2g), each utility shall spend annually
21 at least 0.5% of its total annual operating revenues on programs designed to promote
22 and accomplish energy conservation.

23 **SECTION 20.** 196.374 (2g) of the statutes is created to read:

24 196.374 (2g) The commission may require a utility to spend annually under
25 sub. (2) an amount that is more or less than 0.5% of its annual operating revenues

BILL

1 if, after notice and hearing, the commission finds that the expenditure of such
2 amount is in the public interest.

3 **SECTION 21.** 196.374 (2r) of the statutes is created to read:

4 196.374 (2r) The commission may prescribe all or part of any program that is
5 funded under sub. (2). The commission may require that a utility establish a
6 program funded under sub. (2) that is applicable only to a group of consumers,
7 including low-income utility customers, specified under guidelines established by
8 the commission if the commission determines that the group has special energy
9 conservation needs.

10 **SECTION 22.** 196.374 (3) and (4) of the statutes are repealed.

11 **SECTION 23.** 196.86 of the statutes is repealed.

12 **SECTION 24.** 285.48 of the statutes is repealed.

13 **SECTION 25. Nonstatutory provisions.**

14 (1) DEFINITIONS. In this SECTION:

15 (a) "Commission" means the public service commission.

16 (b) "Department" means the department of administration.

17 (c) "Electric utility" has the meaning given in section 16.957 (1) (g), 1999 stats.

18 (d) "Municipal utility" has the meaning given in section 16.957 (1) (q), 1999
19 stats.

20 (e) "Retail electric cooperative" has the meaning given in section 16.957 (1) (t),
21 1999 stats.

22 (f) "Utility" has the meaning given in section 196.374 (1) (c), 1999 stats.

23 (2) PUBLIC BENEFITS FEE AND CONTRIBUTION REFUNDS.

24 (a) Each electric utility, municipal utility, and retail electric cooperative that
25 has collected public benefits fees from customers or members under section 16.957

BILL

1 (4) (a), 1999 stats., or section 16.957 (5) (a), 1999 stats., or received contributions from
2 customers or members under section 16.957 (2) (c) 4., 1999 stats., or section 16.957
3 (2) (d) 2., 1999 stats., and that has not paid the fees or contributions to the
4 department shall, no later than the first day of the 3rd month beginning after the
5 effective date of this paragraph, refund the fees or contributions to the customers or
6 members.

7 (b) The department shall determine the percentage of public benefits fees and
8 contributions that each electric utility, municipal utility, and retail electric
9 cooperative has paid to the department under section 16.957 (4) (a), 1999 stats., or
10 section 16.957 (5) (a), 1999 stats., or section 16.957 (2) (c) 4., 1999 stats., or section
11 16.957 (2) (d) 2., 1999 stats. From the appropriation under section 20.505 (10) (a) of
12 the statutes, as created by this act, the department shall, no later than the first day
13 of the 3rd month beginning after the effective date of this paragraph, pay to each
14 electric utility, municipal utility, and retail electric cooperative an amount equal to
15 the percentage determined under this paragraph multiplied by the difference
16 between the amount transferred to the general fund under SECTION 26 (1) of this act
17 and the aggregate amount that the commission has determined for all utilities under
18 subsection (3) (a). No later than the first day of the 6th month beginning after the
19 effective date of this paragraph, each electric utility, municipal utility, and retail
20 electric cooperative shall refund to its customers and members the amount that it is
21 paid by the department under this paragraph.

22 (3) UTILITY CONTRIBUTION REFUNDS.

23 (a) The commission shall determine the amount transferred to the general fund
24 under SECTION 26 (1) of this act that is attributable to contributions by each utility
25 under section 196.374 (3), 1999 stats.

BILL

1 (b) From the appropriation under section 20.155 (1) (a) of the statutes, as
2 created by this act, the commission shall, no later than the first day of the 3rd month
3 beginning after the effective date of this paragraph, pay to each utility the amount
4 that the commission has determined under paragraph (a) is attributable to the
5 utility. A utility that receives a payment under this paragraph may use the payment
6 only for purposes of complying with section 196.374 (2) of the statutes, as affected by
7 this act.

SECTION 26. Appropriation changes.

8 (1) UTILITY PUBLIC BENEFITS FUND. On the effective date of this subsection, the
9 unencumbered balance in the utility public benefits fund immediately prior to the
10 effective date of this subsection is transferred to the general fund.
11

12 (END)

**2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1197/2ins
MDK:.....

1

INSERT 3-1:

2

~~x~~
SECTION 1. 15.107 (17) of the statutes is repealed.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1197/2dn

MDK: *hmk*

Date

Representative Ziegelbauer:

This version is identical to the previous version, except that it corrects a drafting error by repealing s. 15.107 (17), stats., (creating the council on public benefits).

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

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

LRB-1197/2dn
MDK:hmh:km

March 12, 2001

Representative Ziegelbauer:

This version is identical to the previous version, except that it corrects a drafting error by repealing s. 15.107 (17), stats., (creating the council on public benefits).

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us



STEPHEN R. MILLER
CHIEF

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

March 12, 2001

MEMORANDUM

To: Representative Ziegelbauer

From: Mark D. Kunkel, Legislative Attorney

Re: LRB-1197 Repeal utility public benefits program and funding

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-0131 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.