

2001 DRAFTING REQUEST

Bill

Received: 11/13/2000

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Steven Foti (608) 266-2401**

By/Representing: **Michael Heifetz**

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

Drafter: **kunkemd**

May Contact:

Addl. Drafters:

Subject: **Public Util. - electric**

Extra Copies:

Submit via email: **NO**

Requester's email:

Pre Topic:

No specific pre topic given

Topic:

Utility public benefits fees

Instructions:

Exempt persons who live in 1) elderly (or assisted living) housing or 2) low-income housing from paying public benefits fees

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 02/28/2001	gilfokm 02/28/2001	marlykr 02/28/2001	_____	lrb_docadmin 02/28/2001		S&L
	kunkemd 05/29/2001	gilfokm 05/29/2001		_____			
/2			jfrantze 05/30/2001	_____	lrb_docadmin 05/30/2001	lrb_docadminS&L 06/01/2001	

Vers. Drafted Reviewed Typed Proofed Submitted Jackcted Required

FE Sent For:

<END>

At intro

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/1	kunkemd	gilfokm	martykr	_____	lrb_docadmin		S&L
	02/28/2001	02/28/2001	02/28/2001	_____			
	kunkemd	gilfokm		_____			
	05/29/2001	05/29/2001		_____			
/2			jfrantze	_____	lrb_docadmin		S&L
			05/30/2001	_____			

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/1	kunkemd 02/28/2001	gilfokm 02/28/2001	martykr 02/28/2001	_____	lrb_docadmin 02/28/2001		S&L

FE Sent For:

12-5/kmg
29-01
5/30
5/30
<END>

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Utility public benefits fees

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Exempt persons who live in 1) elderly (or assisted living) housing or 2) low-income housing from paying public benefits fees

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/?	kunkemd	1-2/KMG /28-01	V. 2, /28	PG 2 /28			

FE Sent For:

<END>



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0984/1

MDK: f...
king

D-NOTE

SOON

2001 BILL

1 AN ACT ^{GEN. CAT.} relating to: public benefits fee exemption and granting rule-making
2 authority.

Analysis by the Legislative Reference Bureau

Under current law, the department of administration (DOA) is required to establish programs for energy assistance to low-income households, conservation and efficiency services, and renewable energy resources. The programs are funded, in part, by monthly public benefits fees that public utilities and cooperative associations ~~that~~ ^{which} provide retail electric service are required to charge their customers and members.

This bill creates an exemption from the requirement ~~to pay~~ ^{of paying} a monthly public benefits fee. Under the bill, a public utility or cooperative association may not charge a monthly public benefits fee to a customer or member who resides in elderly or low-income rental housing that is provided with federal, state, or local government assistance. The bill requires DOA to promulgate rules ~~to~~ ^{that} specify the housing that is eligible for the exemption.

For further information see the *state and local* ^{that} 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:

3 SECTION 1. 16.957 (4) (a) of the statutes is amended to read:

BILL

1 16.957 (4) (a) *Requirement to charge public benefits fees.* ~~Each~~ Except as
2 provided in sub. (6), each electric utility, except for a municipal utility, shall charge
3 each customer a public benefits fee in an amount established in rules promulgated
4 by the department under par. (b). An electric utility, except for a municipal utility,
5 shall collect and pay the fees to the department in accordance with the rules
6 promulgated under par. (b). The public benefits fees collected by an electric utility
7 shall be considered trust funds of the department and not income of the electric
8 utility.

History: 1999 a. 9.

9 **SECTION 2.** 16.957 (5) (a) of the statutes is amended to read:

10 16.957 (5) (a) *Requirement to charge public benefits fees.* ~~Each~~ Except as
11 provided in sub. (6), each retail electric cooperative and municipal utility shall
12 charge a monthly public benefits fee to each customer or member in an amount that
13 is sufficient for the retail electric cooperative or municipal utility to collect an annual
14 average of \$16 per meter. A retail electric cooperative or municipal utility may
15 determine the amount that a particular class of customers or members is required
16 to pay under this paragraph and may charge different fees to different classes of
17 customers or members.

History: 1999 a. 9.

18 **SECTION 3.** 16.957 (6) of the statutes is created to read:

19 16.957 (6) PUBLIC BENEFITS FEE EXEMPTION. No electric utility, retail electric
20 cooperative, or municipal utility may charge a public benefits fee to a customer or
21 member who resides in elderly or low-income rental housing that is provided with
22 federal, state, or local government assistance. The department shall promulgate
23 rules that specify ^y the housing described in this subsection.

24 **SECTION 4. Effective date.**

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0984/1dn

MDK:.....

King

Representative Foti:

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

1. The housing that is subject to the exemption must be rental housing. There are numerous federal and state programs that provide assistance to low-income persons for ownership of housing. I assume that you want to limit the exemption to rental housing.
2. Do you want to include other types of housing (such as homeless shelters) under the exemption?
3. I think that rules are needed to clarify the type of housing that is subject to the exemption. Therefore, the bill requires DOA to promulgate rules on this subject. Also, there is a 6-month delayed effective date to give DOA time to promulgate the rules.

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-0984/1dn
MDK:kmg:km

February 28, 2001

Representative Foti:

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

1. The housing that is subject to the exemption must be rental housing. There are numerous federal and state programs that provide assistance to low-income persons for ownership of housing. I assume that you want to limit the exemption to rental housing.
2. Do you want to include other types of housing (such as homeless shelters) under the exemption?
3. I think that rules are needed to clarify the type of housing that is subject to the exemption. Therefore, the bill requires DOA to promulgate rules on this subject. Also, there is a 6-month delayed effective date to give DOA time to promulgate the rules.

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

Kunkel, Mark

From: Heifetz, Michael
Sent: Tuesday, May 15, 2001 4:57 PM
To: Kunkel, Mark
Subject: FW: public benefits fee exemption--LRB 0984/1

Mark:

Any idea when the slash 2 is coming?

Thanks.

-----Original Message-----

From: Heifetz, Michael
Sent: Thursday, April 19, 2001 2:34 PM
To: Kunkel, Mark
Subject: FW: public benefits fee exemption--LRB 0984/1

Per our conversation...

thanks

-----Original Message-----

From: Stolzenberg, John
Sent: Wednesday, April 18, 2001 5:11 PM
To: Heifetz, Michael
Subject: RE: public benefits fee exemption--LRB 0984/1

Mike,

The phrase you asked about is based on s. ADM 43.07 (5). Reconciliation of under or over collection of public benefits fees is addressed in s. ADM 43.08 (3). I've reproduced the text of these rules below.

The amendment text I gave you leaves it up to the DOA to work out the best way to implement your bill. The rebate approach allowed under the amendment addresses a utility's expected lack of information on which of its customers would qualify for the exemption in the bill. It does not change the statutory requirements that the fees be set to raise a fixed amount or the 3% fee cap. One effect of these requirements is that other residential customers will have increased fees (up to their 3% caps) to cover the fees exempted by the bill.

John

Adm 43.07(5)

(5) REQUEST FOR REBATE. A customer that pays one or more bills to a single non-municipal electric utility for meters located within that utility's service territory, may present documentation to and request relief from that non-municipal electric utility if the public benefits fees paid by the customer within that utility's service territory, when aggregated by the customer, exceed \$750 in any month. The non municipal electric utility shall rebate that portion of the public benefits fee that exceeds \$750 in any month. Any amount so rebated to a customer under this provision shall be treated as an under-collection for purposes of s. Adm 43.08 (3).

Adm 43.08(3)

(3) RECONCILIATION OF COLLECTED FEES.

Adm 43.08(3)(a)

(a) Each non-municipal electric utility shall include a reconciliation statement for the preceding fiscal year with its proposed public benefits fee collection plan under s. Adm 43.07. If the total amount of public benefits fees collected is greater than the amount invoiced plus the total reasonable and prudent expenses approved by the department, the amount of over-collection shall be subtracted from the total amount of public benefits fees to be collected by the non-municipal electric utility in the succeeding fiscal year. If the total amount of public benefits fees collected is less than the amount invoiced plus the total reasonable and prudent expenses approved by the department, the amount under-collected may be added to the total amount of public benefits fees to be collected by the non-municipal electric utility for the succeeding fiscal year. Each non-municipal electric utility shall account for any variation in its collections, working capital costs, and reasonable and prudent expenses when establishing its public benefits fee collection plan for the succeeding fiscal year.

Adm 43.08(3)(b)

(b) Once in any fiscal year, a non-municipal electric utility may submit a written request to the department to adjust its public benefits fee collection plan. The request shall contain the current amount that has been over-collected or under-collected and the amount that is forecasted to be over-collected or under-collected for the remainder of the fiscal year, the reasons for the differences and the non-municipal electric utility's proposed adjustments to its approved public benefits fee collection plan. The department shall indicate its approval or disapproval of the proposed adjustments in writing within 30 days of receipt of the request. The non-municipal electric utility may implement the collection plan adjustment immediately upon department approval. If the department does not approve a collection plan adjustment, the affected non-municipal electric utility may protest under procedures set forth in s. Adm 43.12.

Adm 43.08(3)(c)

(c) A non-municipal electric utility that has under-collected the amount invoiced in the previous fiscal year due to the restrictions of s. 16.957(4)(c) 3., Stats., may submit with its reconciliation of collected fees a written request for a waiver of the obligation in s. Adm 43.08(3)(a) to add the amount under-collected to the total amount of fees to be collected in the succeeding fiscal year.

Adm 43.08(3)(d)

(d) The department shall adjust a non-municipal electric utility's public benefits fee collection plan effective on the beginning of the fiscal year for which the collection plan was submitted, upon a successful appeal filed under s. Adm 43.12.

-----Original Message-----

From: Heifetz, Michael
Sent: Wednesday, April 18, 2001 4:14 PM
To: Stolzenberg, John
Subject: RE: public benefits fee exemption--LRB 0984/1

Thanks. What does it mean to: "treat rebated public benefits fees as an under-collection of the public benefits fees collected by the electric utility"?

-----Original Message-----

From: **Stolzenberg, John**
Sent: Wednesday, April 18, 2001 3:03 PM
To: Heifetz, Michael
Subject: RE: public benefits fee exemption--LRB 0984/1

Mike,

Here's one approach for dealing with the collection issues in LRB-0984/1. Please give me a call, and I

can elaborate on the merits of this approach and this language.

John

Amend LRB-0984/1 as follows:

1. Page 2, line 24: before the period insert "and one or more procedures that an electric utility, other than a municipal utility, may use to implement this subsection. The procedures may include authorization for a customer who presents documentation to the electric utility providing service to the customer on the customer's eligibility for the public benefits fee exemption under this subsection and requests relief from the public benefits fee to receive a rebate from the electric utility on any public benefits fees paid by the customer to the electric utility and for the electric utility to treat rebated public benefits fees as an under-collection of the public benefits fees collected by the electric utility".

or member

The rules may require a customer] to
submit documentation that he or
she is ~~eligible for exempt~~ under this subs.
from the requirement to pay a PBF

The rules may also ~~allow an electric~~
~~utility to treat any~~
~~as an under-collection for purposes~~

require an electric utility
to

Kunkel, Mark

To: Stolzenberg, John
Subject: Rep. Foti's LRB-0984/1 (public benefits fee exemption)

John:

Here is my first attempt at reworking the language that you suggested for revising Rep. Foti's LRB-0984/1. I think it captures what you want to accomplish. Can you let me know what you think? (I am out of the office today from 9am until 11:30 am, but otherwise available.)

The following language would replace page 2, lines 20 to 24 of the bill:

16.957 (6) Public benefits fee exemption. (a) No electric utility, retail electric cooperative, or municipal utility may charge a public benefits fee to a customer or member who resides in elderly or low-income rental housing that is provided with federal, state, or local government assistance.

(b) The department shall promulgate rules that specify the housing described in par. (a) and that establish procedures for complying with par. (a). The rules shall allow an electric utility, retail electric cooperative, or municipal utility to do any of the following:

1. Provide rebates to customers or members who have paid public benefits fees and who reside in housing described in par. (a).
2. Require a residential customer to submit proof to the electric utility, retail cooperative, or municipal utility that the residential customer resides in housing described in par. (a).

(c) An electric utility that provides a rebate under par. (b) 1. in a fiscal year shall add the amount of the rebate to the total amount of public benefits fees that the electric utility is required to collect in the succeeding fiscal year.

Mark Kunkel
Legislative Attorney
Legislative Reference Bureau
(608) 266-0131 mark.kunkel@legis.state.wi.us

Kunkel, Mark

From: Stolzenberg, John
Sent: Tuesday, May 29, 2001 10:43 AM
To: Kunkel, Mark
Subject: RE: Rep. Foti's LRB-0984/1 (public benefits fee exemption)

Mark,

See my comments below in blue.

(boldface & ital.)

John

-----Original Message-----

From: Kunkel, Mark
Sent: Thursday, May 24, 2001 8:28 AM
To: Stolzenberg, John
Subject: Rep. Foti's LRB-0984/1 (public benefits fee exemption)

John:

Here is my first attempt at reworking the language that you suggested for revising Rep. Foti's LRB-0984/1. I think it captures what you want to accomplish. Can you let me know what you think? (I am out of the office today from 9am until 11:30 am, but otherwise available.)

The following language would replace page 2, lines 20 to 24 of the bill:

16.957 (6) Public benefits fee exemption. (a) No electric utility, retail electric cooperative, or municipal utility may charge a public benefits fee to a customer or member who resides in elderly or low-income rental housing that is provided with federal, state, or local government assistance.

(b) The department shall promulgate rules that specify the housing described in par. (a) and that establish procedures for complying with par. (a). The rules shall allow an electric utility, retail electric cooperative, or municipal utility to do any of the following:

Under the current system, DOA only creates procedures related to public benefits fee setting and collection for investor owned electric utilities, and thus I'd suggest limiting the procedures under the second clause in the first sentence in par. (b) (intro) to these utilities! Why not give the DOA more flexibility and change "shall" to "may" in the second sentence in par. (b) (intro)? ✓

1. Provide rebates to customers or members who have paid public benefits fees and who reside in housing described in par. (a).

Is subd. 1. clear that the customer must initiate and request the rebate? ✓

2. Require a residential customer to submit proof to the electric utility, retail cooperative, or municipal utility that the residential customer resides in housing described in par. (a).

(c) An electric utility that provides a rebate under par. (b) 1. in a fiscal year shall add the amount of the rebate to the total amount of public benefits fees that the electric utility is required to collect in the succeeding fiscal year. ✓

Exclude municipal utilities from par. (c) if municipal utilities are excluded from par. (b) 1. and 2. rules.

Mark Kunkel
Legislative Attorney
Legislative Reference Bureau

Kunkel, Mark

From: Stolzenberg, John
Sent: Tuesday, May 29, 2001 10:54 AM
To: Kunkel, Mark
Subject: RE: Rep. Foti's LRB-0984/1 (public benefits fee exemption)

Mark,

Sorry, I forgot to include this comment.

John

-----Original Message-----

From: Kunkel, Mark
Sent: Thursday, May 24, 2001 8:28 AM
To: Stolzenberg, John
Subject: Rep. Foti's LRB-0984/1 (public benefits fee exemption)

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The following language would replace page 2, lines 20 to 24 of the bill:

16.957 (6) Public benefits fee exemption. (a) No electric utility, retail electric cooperative, or municipal utility may charge a public benefits fee to a customer or member who resides in elderly or low-income rental housing that is provided with federal, state, or local government assistance.

This provision needs to be limited so that an elderly person who is charged 2 public benefit fees - one for a residence and one for a business - may not claim this exemption for the business' public benefits fee. (I assume that this is Rep. Foti's intent. I don't know how big a problem it is; it probably depends on how the housing is defined by DOA.) One way to address this point would be to insert "residential" before "customer". ✓

(b) The department shall promulgate rules that specify the housing described in par. (a) and that establish procedures for complying with par. (a). The rules shall allow an electric utility, retail electric cooperative, or municipal utility to do any of the following:

1. Provide rebates to customers or members who have paid public benefits fees and who reside in housing described in par. (a).
2. Require a residential customer to submit proof to the electric utility, retail cooperative, or municipal utility that the residential customer resides in housing described in par. (a).

(c) An electric utility that provides a rebate under par. (b) 1. in a fiscal year shall add the amount of the rebate to the total amount of public benefits fees that the electric utility is required to collect in the succeeding fiscal year.

Mark Kunkel
Legislative Attorney
Legislative Reference Bureau
(608) 266-0131 mark.kunkel@legis.state.wi.us

Tomorrow
5/30
pm

RM NOT
RUN

2001 BILL

1 AN ACT to amend 16.957 (4) (a) and 16.957 (5) (a); and to create 16.957 (6) of the
2 statutes; relating to: public benefits fee exemption and granting rule-making
3 authority.

INSERT 1A

Gen. Conf.

notifies the utility or
public utility or
cooperative
association
that he or
she

Analysis by the Legislative Reference Bureau

Under current law, the department of administration (DOA) is required to establish programs for energy assistance to low-income households, conservation and efficiency services, and renewable energy resources. The programs are funded, in part, by monthly public benefits fees that public utilities and cooperative associations which provide retail electric service are required to charge their customers and members.

This bill creates an exemption from the requirement of paying a monthly public benefits fee. Under the bill, a public utility or cooperative association may not charge a monthly public benefits fee to a customer or member who resides in elderly or low-income rental housing that is provided with federal, state, or local government assistance. The bill requires DOA to promulgate rules that specify the housing that is eligible for the exemption.

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:

INSERT 1B

BILL

SECTION 1. 16.957 (4) (a) of the statutes is amended to read:

16.957 (4) (a) *Requirement to charge public benefits fees.* ~~Each~~ Except as provided in sub. (6), each electric utility, except for a municipal utility, shall charge each customer a public benefits fee in an amount established in rules promulgated by the department under par. (b). An electric utility, except for a municipal utility, shall collect and pay the fees to the department in accordance with the rules promulgated under par. (b). The public benefits fees collected by an electric utility shall be considered trust funds of the department and not income of the electric utility.

SECTION 2. 16.957 (5) (a) of the statutes is amended to read:

16.957 (5) (a) *Requirement to charge public benefits fees.* ~~Each~~ Except as provided in sub. (6), each retail electric cooperative and municipal utility shall charge a monthly public benefits fee to each customer or member in an amount that is sufficient for the retail electric cooperative or municipal utility to collect an annual average of \$16 per meter. A retail electric cooperative or municipal utility may determine the amount that a particular class of customers or members is required to pay under this paragraph and may charge different fees to different classes of customers or members.

SECTION 3. 16.957 (6) of the statutes is created to read:

16.957 (6) **PUBLIC BENEFITS FEE EXEMPTION.** No electric utility, retail electric cooperative, or municipal utility may charge a public benefits fee to a customer or member who resides in elderly or low-income rental housing that is provided with federal, state, or local government assistance. The department shall promulgate rules that specify the housing described in this subsection.

INSERT
2-20

SECTION 4. Effective date.

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0984/2ins
MDK:.....

1

INSERT 1A: ✓

DOA must promulgate rules that establish the amounts of public benefits fees that nonmunicipal public utilities must charge. Municipal public utilities and retail cooperative must charge fees in amounts that are established by statute.

2

INSERT 1B: ✓

In addition, DOA must promulgate rules that establish procedures for a nonmunicipal utility to comply with the bill. The rules regarding nonmunicipal utilities may allow nonmunicipal utilities to provide rebates to residential customers. If a nonmunicipal utility provides such a rebate in a fiscal year, the nonmunicipal utility must add the amount of the rebate to the amount of total public benefits fees that it is required to collect in the succeeding fiscal year. Also, the rules regarding nonmunicipal utilities may require a residential customer to submit proof that he or she resides in housing that is eligible for the exemption.

3

INSERT 2-20: ✓

4

~~16.957 (6) PUBLIC BENEFITS FEE EXEMPTION~~ (a) In this subsection, “nonmunicipal electric utility” means an electric utility that is not a municipal utility.

5

6

7

(b) No nonmunicipal electric utility, municipal utility, or retail electric cooperative may charge a public benefits fee to a residential customer or member who notifies the nonmunicipal electric utility, municipal utility, or retail electric cooperative that the residential customer or member resides in elderly or low-income rental housing that is provided with federal, state, or local government assistance.

8

9

10

11

12

13

(c) The department shall promulgate rules that do all of the following:

14

1. Specify the housing described in par. (b).

15

2. Establish procedures for a nonmunicipal electric utility to comply with par.

16

(b).

1 (d) The rules promulgated under par. (c) 2. may allow a nonmunicipal electric
2 utility to do any of the following:

3 1. Provide rebates to residential customers who have paid public benefits fees
4 and who make a notification under par. (b).

5 2. Require a residential customer to submit proof to the nonmunicipal electric
6 utility that the residential customer resides in housing described in par. (b).

7 (e) A nonmunicipal electric utility that provides a rebate described in par. (d)
8 1. in a fiscal year shall add the amount of the rebate to the total amount of public
9 benefits fees that the nonmunicipal electric utility is required to collect in the
10 succeeding fiscal year.



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

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

STEPHEN R. MILLER
CHIEF

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

May 30, 2001

MEMORANDUM

To: Representative Foti

From: Mark D. Kunkel, Legislative Attorney

Re: LRB-0984/2 Utility public benefits fees

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.

 P 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.