

2001 DRAFTING REQUEST

Bill

Received: 12/04/2000

Received By: jkreye

Wanted: Soon

Identical to LRB:

For: Administration-Budget 6-8593

By/Representing: Holden

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Alt. Drafters:

Subject: Tax - utilities

Extra Copies:

Pre Topic:

DOA:.....Holden -

Topic:

Gross receipts tax on wholesale merchant plant

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 12/04/2000	jdyer 12/07/2000		_____			S&L
/1	jkreye 02/06/2001	jdyer 02/06/2001	rschluet 12/08/2000	_____	lrb_docadmin 12/08/2000		S&L
/2			haugca 02/07/2001	_____	lrb_docadmin 02/07/2001		

FE Sent For:

<END>

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/?	jkreye 12/04/2000	jdye 12/07/2000		_____			S&L
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FE Sent For:

CH 2-1
Kaw

<END>

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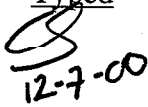
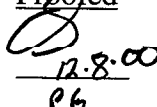
Topic:

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Instructions:

See Attached

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1/?	jkreye	1 12/7 jld	 12-7-00	 12-8-00 P6			

FE Sent For:

<END>

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
101 East Wilson Street, Madison, Wisconsin

TOMMY G. THOMPSON
GOVERNOR

GEORGE LIGHTBOURN
SECRETARY



Division of Executive Budget and Finance
Post Office Box 7864
Madison, WI 53707-7864
Voice (608) 266-1736
Fax (608) 267-0372
TTY (608) 267-9629

1321

Date: December 1, 2000

To: Steve Miller, LRB

From: Kerry Holden, DOA *KH*
266-8593

Subject: Gross Receipts Tax on Merchant Plants

Please draft the attached for inclusion in the Governor's budget. Please call if you have any questions. Thank you!

FISCAL ESTIMATE FORM

1999 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB # 99-4799/1
INTRODUCTION # AB 927
Admin. Rule #

Subject
License Fee for Wholesale Merchant Electric Plants

Fiscal Effect

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

<input type="checkbox"/> Increase Existing Appropriation	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs - May be Possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Decrease Existing Appropriation	<input checked="" type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Create New Appropriation	<input type="checkbox"/> Decrease Costs	

Local: No Local Government Costs

1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input checked="" type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input checked="" type="checkbox"/> Towns <input checked="" type="checkbox"/> Villages <input checked="" type="checkbox"/> Cities <input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others _____ <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	4. <input checked="" type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory	

Fund Sources Affected <input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	Affected Ch. 20 Appropriations
--	---------------------------------------

Assumptions Used in Arriving at Fiscal Estimate:

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

State utility taxes

Under current law, gross revenues from wholesale sales of electricity are taxed under the state utility tax at 3.19%. Under the bill, gross revenues from wholesale sales of electricity from July 1, 2002 to June 30, 2008 would be taxed at 1.59%.

Based on revenue data for 1998, the bill would reduce state utility tax collections from existing electric utilities by about \$7.6 million each year. Since revenues from wholesale sales fluctuate considerably from year-to-year, depending in part on weather conditions and the availability of generating units, the actual level of lost utility tax revenue could differ significantly from the above amount.

Additional revenue losses could occur if new generating capacity is built in the state. Based on historic experience, about 2000MW to 4000MW of electric plant capacity is constructed in this state every 10 years. Based on information on existing wholesale electric companies in Wisconsin, and assuming that all the power generated by the added capacity is sold wholesale, the bill would reduce state tax collections by \$3 to \$4 million for every 1,000 megawatts (MW) of generating capacity. Thus, the bill could potentially reduce state revenues by an additional amount of \$6 million to \$8 million annually (2000MW at \$3 million to \$4 million per 1000MW) to as much as \$12 million to \$16 million (4000MW at \$3 to \$4 million per 1000MW) by 2008.

Thus, the total revenue loss ranges from \$13.6 million (at 2000 MW of added wholesale generating capacity) to \$23.6 million (at 4000 MW of added wholesale generating capacity).

(continued on page two)

Long-Range Fiscal Implications:

Agency/Prepared by: (Name & Phone No.) Wisconsin Department of Revenue Daniel P. Huegel, (608) 266-5705	Authorized Signature/Telephone No. Yeang-Eng Braun (608) 266-2700 <i>Yeang-Eng Braun</i>	Date 3/24/00
--	--	------------------------

State shared revenues

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

Under the bill, municipalities and counties with generating plants defined as "wholesale merchant plants" for state utility regulation purposes would qualify for a shared revenue utility payment on behalf of such property. To the extent such plants are built, shared revenue utility payments would increase under the bill.

YTB 3/24/00

FISCAL ESTIMATE WORKSHEET

Detailed Estimate of Annual Fiscal Effect

1999 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB # 99-4799/1
INTRODUCTION # AB 927

Admin. Rule #

Subject

License Fee for Wholesale Merchant Electric Plants

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

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

NET ANNUALIZED FISCAL IMPACT

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

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
Wisconsin Department of Revenue Daniel P. Huegel, (608) 266-5705	Yeang-Eng Braun <i>Yeang Eng Braun</i> (608) 266-2700	3/24/00

1999 - 2000 LEGISLATURE

LRBs0488/2
JKicjs:hmh

ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 927

March 28, 2000 - Offered by Representative LADWIG.

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

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

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

6 76.025 (2) If the property of any company defined in s. 76.28 (1), except a
7 qualified wholesale electric company as defined in s. 76.28 (1) (gm) and a wholesale
8 merchant plant as defined in s. 196.491 (1) (w), is located entirely within a single
9 town, village or city, it shall be subject to local assessment and taxation.

10 SECTION 2. 76.28 (1) (e) (intro.) of the statutes, as affected by 1999 Wisconsin
11 Act 9, is amended to read:

1 76.28 (1) (e) (intro.) "Light, heat and power companies" means any person,
2 association, company or corporation, including corporations described in s. 66.069
3 (2), qualified wholesale electric companies, wholesale merchant plants as defined in
4 s. 196.491 (1) (w) and transmission companies and except only business enterprises
5 carried on exclusively either for the private use of the person, association, company
6 or corporation engaged in them, or for the private use of a person, association,
7 company or corporation owning a majority of all outstanding capital stock or who
8 control the operation of business enterprises and except electric cooperatives taxed
9 under s. 76.48 that engage in any of the following businesses:

10 SECTION 3. 76.28 (2) (a) of the statutes is amended to read:

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

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

21 76.29 License fee for selling electricity at wholesale. (1) DEFINITIONS.

22 In this section:

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

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

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

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

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

4 (f) "Tax period" means each calendar year or portion of a calendar year from
5 January 1, 2002, to December 31, 2007.

6 (2) IMPOSITION. There is imposed on every light, heat and power company and
7 electric cooperative that owns an electric utility plant, an annual license fee to be
8 assessed by the department on or before May 1, 2003, and every May 1 thereafter,
9 ending with the assessment on May 1, 2008, measured by the gross revenues of the
10 preceding tax period in an amount equal to the apportionment factor multiplied by
11 gross revenues multiplied by 1.59%. The fee shall become delinquent if not paid
12 when due and when delinquent shall be subject to interest at the rate of 1.5% per
13 month until paid.

14 (3) ADMINISTRATION. Section 76.28 (3) (c) and (4) to (11), as it applies to the fee
15 imposed under section 76.28 (2), applies to the fee imposed under this section.

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

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

1 represents the extent of the use in generating, transmitting or distributing electric
2 energy, and the balance is subject to local assessment and taxation, except that the
3 entire general structure is subject to special assessments for local improvements.

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

5 79.04 (1) (intro.) Annually the department of administration, upon
6 certification by the department of revenue, shall distribute to a municipality having
7 within its boundaries a production plant or a general structure, including production
8 plants and general structures under construction, used by a light, heat or power
9 company assessed under s. 76.28 (2) or s. 76.29 (2), except property described in s.
10 66.069 (2) unless the production plant is owned or operated by a local governmental
11 unit located outside of the municipality, or by an electric cooperative assessed under
12 ss. 76.07 and 76.48, respectively, or by a municipal electric company under s. 66.073
13 the amount determined as follows:

14 SECTION 7. 79.04 (1) (a) of the statutes is amended to read:

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

1 as determined by the department of revenue and less the value of treatment plant
2 and pollution abatement equipment, as defined under s. 70.11 (21) (a), as determined
3 by the department of revenue plus an amount from the shared revenue account
4 determined by multiplying by 3 mills in the case of a town, and 6 mills in the case
5 of a city or village, of the first \$125,000,000 of the total original cost of production
6 plant, general structures and work-in-progress less depreciation, land and
7 approved waste treatment facilities of each qualified wholesale electric company, as
8 defined in s. 76.28 (1) (gm), and each wholesale merchant plant, as defined in s.
9 196.491 (1) (w), as reported to the department of revenue of all property within the
10 municipality. The total of amounts, as depreciated, from the accounts of all public
11 utilities for the same production plant is also limited to not more than \$125,000,000.
12 The amount distributable to a municipality in any year shall not exceed \$300 times
13 the population of the municipality.

14 SECTION 8. 79.04 (1) (c) 2. of the statutes is amended to read:

15 79.04 (1) (c) 2. If a production plant is located in more than one municipality,
16 the total payment under subd. 1. shall be apportioned according to the amounts
17 shown on the preceding December 31 for the production plant in the account
18 described in par. (a) for "production plant exclusive of land" within each municipality
19 for all public utilities except qualified wholesale electric companies, as defined in s.
20 76.28 (1) (gm), and except wholesale merchant plants, as defined in s. 196.491 (1) (w),
21 or according to the value as reported to the department of revenue under par. (a) of
22 the production plant within each municipality for each qualified wholesale electric
23 company. The payment to each municipality under this subdivision shall be no less
24 than \$15,000 annually.

25 SECTION 9. 79.04 (2) (a) of the statutes is amended to read:

1 79.04 (2) (a) Annually, the department of administration, upon certification by
2 the department of revenue, shall distribute from the shared revenue account to any
3 county having within its boundaries a production plant or a general structure,
4 including production plants and general structures under construction, used by a
5 light, heat or power company assessed under s. 76.28 (2) or s. 76.29 (2), except
6 property described in s. 66.069 (2) unless the production plant is owned or operated
7 by a local governmental unit that is located outside of the municipality in which the
8 production plant is located, or by an electric cooperative assessed under ss. 76.07 and
9 76.48, respectively, or by a municipal electric company under s. 66.073 an amount
10 determined by multiplying by 6 mills in the case of property in a town and by 3 mills
11 in the case of property in a city or village the first \$125,000,000 of the amount shown
12 in the account, plus leased property, of each public utility except qualified wholesale
13 electric companies, as defined in s. 76.28 (1) (gm), and except wholesale merchant
14 plants, as defined in s. 196.491 (1) (w), on December 31 of the preceding year for
15 either "production plant, exclusive of land" and "general structures", or "work in
16 progress" for production plants and general structures under construction, in the
17 case of light, heat and power companies, electric cooperatives or municipal electric
18 companies, for all property within the municipality in accordance with the system
19 of accounts established by the public service commission or rural electrification
20 administration, less depreciation thereon as determined by the department of
21 revenue and less the value of treatment plant and pollution abatement equipment,
22 as defined under s. 70.11 (21) (a), as determined by the department of revenue plus
23 an amount from the shared revenue account determined by multiplying by 6 mills
24 in the case of property in a town, and 3 mills in the case of property in a city or village,
25 of the total original cost of production plant, general structures and

1 work-in-progress less depreciation, land and approved waste treatment facilities of
 2 each qualified wholesale electric company, as defined in s. 76.28 (1) (gm), and each
 3 wholesale merchant plant, as defined in s. 196.491 (1) (w), as reported to the
 4 department of revenue of all property within the municipality. The total of amounts,
 5 as depreciated, from the accounts of all public utilities for the same production plant
 6 is also limited to not more than \$125,000,000. The amount distributable to a county
 7 in any year shall not exceed \$100 times the population of the county.

8 **SECTION 10. Effective date.**

9 (1) This act takes effect on January 1, 2001.

10 (END)

1999 - 2000 LEGISLATURE

LRBa2181/1
JK:jlg&kmg:km**ASSEMBLY AMENDMENT 4,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 927**

March 29, 2000 - Offered by Representatives J. LEHMAN and STEINBRINK.

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 4, line 3: after that line insert:

3 "SECTION 5m. 79.03 (4) of the statutes is amended to read:

4 79.03 (4) In 1991, the total amount to be distributed under ss. 79.03, 79.04 and
5 79.06 from s. 20.835 (1) (d) is \$869,000,000. In 1992, the total amount to be
6 distributed under ss. 79.03, 79.04 and 79.06 from s. 20.835 (1) (d) is \$885,961,300.
7 In 1993, the total amount to be distributed under ss. 79.03, 79.04 and 79.06 from s.
8 20.835 (1) (d) is \$903,680,500. In 1994, the total amounts to be distributed under this
9 section and ss. 79.04 and 79.06 from s. 20.835 (1) (d) are \$746,547,500 to
10 municipalities and \$168,981,800 to counties. ~~In Beginning in 1995 and subsequent~~
11 ~~years ending in the year 2000~~, the total amounts to be distributed under ss. 79.03,
12 79.04 and 79.06 from s. 20.835 (1) (d) are \$761,478,000 to municipalities and

1 \$168,981,800 to counties. In 2001, and subsequent years, the amount to be
2 distributed to a municipality from s. 20.835 (1) (d) shall be increased by any amounts
3 to be paid under s. 79.04 for any qualifying property of wholesale merchant plants,
4 located in the municipality that did not exist in the previous year and the amount
5 to be distributed to a county from s. 20.835 (1) (d) shall be increased by any amounts
6 to be paid under s. 79.04 for any qualifying property of wholesale merchant plants,
7 located in the county that did not exist in the previous year."

8 (END)

1999 - 2000 LEGISLATURE

LRBf100/1
JK:cmh:km

**ASSEMBLY AMENDMENT 1,
TO ASSEMBLY AMENDMENT 4,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 927**

March 29, 2000 - Offered by Representatives STEINBRINK and LADWIG.

1 At the locations indicated, amend the amendment as follows:

- 2 1. Page 2, line 2: delete "a municipality" and substitute "municipalities".
- 3 2. Page 2, line 4: delete "the municipality" and substitute "a municipality".
- 4 3. Page 2, line 5: delete "a county" and substitute "counties".
- 5 4. Page 2, line 7: delete "the county" and substitute "a county".

6 (END)

Handwritten initials and marks: "JC", "UK", "JLD" with a checkmark.

DOA:.....Holden - Gross receipts tax on wholesale merchant plant
FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

SOON
11-4-00
5:10PM

D-N

do not gen the budget.

1 AN ACT ...; relating to: ~~tax~~

Analysis by the Legislative Reference Bureau

INSERT A ✓

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

2

(END)

INSERT B

INSERT A

1999 ASSEMBLY BILL 927

TAXATION ← head
OTHER TAXATION ← sub

March 24, 2000 - Introduced by Representatives LADWIG, J. LEHMAN, STEINBRINK and TURNER, cosponsored by Senators WIRCH and PLACHE. Referred to Committee on Utilities.

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

Analysis by the Legislative Reference Bureau

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

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

December 31, 2008

January 1, 2003

%



ASSEMBLY BILL 927

included in

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

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

end of insert

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

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

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

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

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

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

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

18 In this section:

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 927**

March 28, 2000 - Offered by Representative LADWIG.

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

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

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

6 76.025 (2) If the property of any company defined in s. 76.28 (1), except a
7 qualified wholesale electric company as defined in s. 76.28 (1) (gm) and a wholesale
8 merchant plant as defined in s. 196.491 (1) (w), is located entirely within a single
9 town, village or city, it shall be subject to local assessment and taxation.

10 **SECTION 2.** 76.28 (1) (e) (intro.) of the statutes, as affected by 1999 Wisconsin

11 ~~Act 19~~ is amended to read:

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1 76.28 (1) (e) (intro.) "Light, heat and power companies" means any person,
 2 association, company or corporation, including corporations described in s. 66.069
 3 (2), qualified wholesale electric companies, wholesale merchant plants as defined in
 4 s. 196.491 (1) (w) and transmission companies and except only business enterprises
 5 carried on exclusively either for the private use of the person, association, company
 6 or corporation engaged in them, or for the private use of a person, association,
 7 company or corporation owning a majority of all outstanding capital stock or who
 8 control the operation of business enterprises and except electric cooperatives taxed
 9 under s. 76.48 that engage in any of the following businesses:

10 SECTION 3. 76.28 (2) (a) of the statutes is amended to read:

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

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

21 **76.29 License fee for selling electricity at wholesale. (1) DEFINITIONS.**

22 In this section:

- 23 (a) "Apportionment factor" has the meaning given in s. 76.28 (1) (a).
- 24 (b) "Department" means the department of revenue.
- 25 (c) "Electric cooperative" has the meaning given in s. 76.48 (1g) (c).



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

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

4 (f) "Tax period" means each calendar year or portion of a calendar year from
5 January 1, ~~2002~~²⁰⁰³, to December 31, ~~2007~~²⁰⁰⁸.

6 (2) IMPOSITION. There is imposed on every light, heat and power company and
7 electric cooperative that owns an electric utility plant, an annual license fee to be
8 assessed by the department on or before May 1, ~~2003~~²⁰⁰⁴, and every May 1 thereafter,
9 ending with the assessment on May 1, ~~2008~~²⁰⁰⁹, measured by the gross revenues of the
10 preceding tax period in an amount equal to the apportionment factor multiplied by
11 gross revenues multiplied by 1.59%. The fee shall become delinquent if not paid
12 when due and when delinquent shall be subject to interest at the rate of 1.5% per
13 month until paid.

14 (3) ADMINISTRATION. Section 76.28 (3) (c) and (4) to (11), as it applies to the fee ✓
15 imposed under section 76.28 (2), applies to the fee imposed under this section.

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

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



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1 represents the extent of the use in generating, transmitting or distributing electric
2 energy, and the balance is subject to local assessment and taxation, except that the
3 entire general structure is subject to special assessments for local improvements.

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

~~5 79.04 (1) (intro.) Annually the department of administration, upon
6 certification by the department of revenue, shall distribute to a municipality having
7 within its boundaries a production plant or a general structure, including production
8 plants and general structures under construction, used by a light, heat or power
9 company assessed under s. 76.28 (2) or s. 76.29 (2), except property described in s.
10 66.069 (2) unless the production plant is owned or operated by a local governmental
11 unit located outside of the municipality, or by an electric cooperative assessed under
12 ss. 76.07 and 76.48, respectively, or by a municipal electric company under s. 66.073
13 the amount determined as follows:~~

14 SECTION 7. 79.04 (1) (a) of the statutes is amended to read:

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

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1 as determined by the department of revenue and less the value of treatment plant
 2 and pollution abatement equipment, as defined under s. 70.11 (21) (a), as determined
 3 by the department of revenue plus an amount from the shared revenue account
 4 determined by multiplying by 3 mills in the case of a town, and 6 mills in the case
 5 of a city or village, of the first \$125,000,000 of the total original cost of production
 6 plant, general structures and work-in-progress less depreciation, land and
 7 approved waste treatment facilities of each qualified wholesale electric company, as
 8 defined in s. 76.28 (1) (gm), and each wholesale merchant plant, as defined in s.
 9 196.491 (1) (w), as reported to the department of revenue of all property within the
 10 municipality. The total of amounts, as depreciated, from the accounts of all public
 11 utilities for the same production plant is also limited to not more than \$125,000,000.
 12 The amount distributable to a municipality in any year shall not exceed \$300 times
 13 the population of the municipality.

14 **SECTION 8.** 79.04 (1) (c) 2. of the statutes is amended to read:

15 79.04 (1) (c) 2. If a production plant is located in more than one municipality,
 16 the total payment under subd. 1. shall be apportioned according to the amounts
 17 shown on the preceding December 31 for the production plant in the account
 18 described in par. (a) for "production plant exclusive of land" within each municipality
 19 for all public utilities except qualified wholesale electric companies, as defined in s.
 20 76.28 (1) (gm), and except wholesale merchant plants, as defined in s. 196.491 (1) (w),
 21 or according to the value as reported to the department of revenue under par. (a) of
 22 the production plant within each municipality for each qualified wholesale electric
 23 company. The payment to each municipality under this subdivision shall be no less
 24 than \$15,000 annually.

25 ~~SECTION 9. 79.04 (2) (a) of the statutes is amended to read:~~



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1 79.04 (2) (a) Annually, the department of administration, upon certification by
2 the department of revenue, shall distribute from the shared revenue account to any
3 county having within its boundaries a production plant or a general structure,
4 including production plants and general structures under construction, used by a
5 light, heat or power company assessed under s. 76.28 (2) or s. 76.29 (2), except
6 property described in s. 66.069 (2) unless the production plant is owned or operated
7 by a local governmental unit that is located outside of the municipality in which the
8 production plant is located, or by an electric cooperative assessed under ss. 76.07 and
9 76.48, respectively, or by a municipal electric company under s. 66.073 an amount
10 determined by multiplying by 6 mills in the case of property in a town and by 3 mills
11 in the case of property in a city or village the first \$125,000,000 of the amount shown
12 in the account, plus leased property, of each public utility except qualified wholesale
13 electric companies, as defined in s. 76.28 (1) (gm), and except wholesale merchant
14 plants, as defined in s. 196.491 (1) (w), on December 31 of the preceding year for
15 either "production plant, exclusive of land" and "general structures", or "work in
16 progress" for production plants and general structures under construction, in the
17 case of light, heat and power companies, electric cooperatives or municipal electric
18 companies, for all property within the municipality in accordance with the system
19 of accounts established by the public service commission or rural electrification
20 administration, less depreciation thereon as determined by the department of
21 revenue and less the value of treatment plant and pollution abatement equipment,
22 as defined under s. 70.11 (21) (a), as determined by the department of revenue plus
23 an amount from the shared revenue account determined by multiplying by 6 mills
24 in the case of property in a town, and 3 mills in the case of property in a city or village,
25 of the total original cost of production plant, general structures and



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1 work-in-progress less depreciation, land and approved waste treatment facilities of
 2 each qualified wholesale electric company, as defined in s. 76.28 (1) (gm), and each
 3 wholesale merchant plant, as defined in s. 196.491 (1) (w), as reported to the
 4 department of revenue of all property within the municipality. The total of amounts,
 5 as depreciated, from the accounts of all public utilities for the same production plant
 6 is also limited to not more than \$125,000,000. The amount distributable to a county
 7 in any year shall not exceed \$100 times the population of the county.

8 **SECTION 10. Effective date.**

9 (1) ~~This act takes effect on January 1, 2001.~~

10

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Section #. 76.28 (1) (e) (intro.) of the statutes is amended to read:

76.28 (1) (e) (intro.) "Light, heat and power companies" means any person, association, company or corporation, including corporations described in s. 66.0813, qualified wholesale electric companies and transmission companies and except only business enterprises carried on exclusively either for the private use of the person, association, company or corporation engaged in them, or for the private use of a person, association, company or corporation owning a majority of all outstanding capital stock or who control the operation of business enterprises and except electric cooperatives taxed under s. 76.48 that engage in any of the following businesses:

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

wholesale merchant plants as defined in
s. 196.491(1)(w)

end of insert C

**ASSEMBLY AMENDMENT 4,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 927**

March 29, 2000 - Offered by Representatives J. LEHMAN and STEINBRINK.

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 4, line 3: after that line insert:

3 SECTION 79.03 (4) of the statutes is amended to read:

4 79.03 (4) In 1991, the total amount to be distributed under ss. 79.03, 79.04 and
5 79.06 from s. 20.835 (1) (d) is \$869,000,000. In 1992, the total amount to be
6 distributed under ss. 79.03, 79.04 and 79.06 from s. 20.835 (1) (d) is \$885,961,300.
7 In 1993, the total amount to be distributed under ss. 79.03, 79.04 and 79.06 from s.
8 20.835 (1) (d) is \$903,680,500. In 1994, the total amounts to be distributed under this
9 section and ss. 79.04 and 79.06 from s. 20.835 (1) (d) are \$746,547,500 to
10 municipalities and \$168,981,800 to counties. In Beginning in 1995 and subsequent
11 years ending in the year 2000, the total amounts to be distributed under ss. 79.03,
12 79.04 and 79.06 from s. 20.835 (1) (d) are \$761,478,000 to municipalities and

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\$168,981,800 to counties. ^{municipalities} In ~~2001~~ ²⁰⁰², and subsequent years, the amount to be distributed to ~~a municipality~~ from s. 20.835 (1) (d) shall be increased by any amounts to be paid under s. 79.04 for any qualifying property of wholesale merchant plants, located in ~~the~~ ^a municipality, that did not exist in the previous year and the amount to be distributed to ~~a county~~ ^{counties} from s. 20.835 (1) (d) shall be increased by any amounts to be paid under s. 79.04 for any qualifying property of wholesale merchant plants, located in ~~the~~ ^a county, that did not exist in the previous year. *J*

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END OF INSERT D

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Section #. 79.04 (1) (intro.) of the statutes is amended to read:

or (S) 76.29(2)

79.04 (1) (intro.) Annually the department of administration, upon certification by the department of revenue, shall distribute to a municipality having within its boundaries a production plant or a general structure, including production plants and general structures under construction, used by a light, heat, or power company assessed under s. 76.28 (2), except property described in s. 66.0813 unless the production plant is owned or operated by a local governmental unit located outside of the municipality, or by an electric cooperative assessed under ss. 76.07 and 76.48, respectively, or by a municipal electric company under s. 66.0825 the amount determined as follows:

NOTE: The cross-reference to s. 66.0825 was changed pursuant to 1999 Wis. Act 150, section 672, which incorrectly indicated that s. 66.073 was to be changed to s. 66.0736. Section 66.073 was renumbered to s. 66.0825 by Act 150, as shown here. Corrective legislation is pending.

History: 1971 c. 125, 215; 1973 c. 90 ss. 387, 391g; 1973 c. 243 s. 82; 1975 c. 39, 224; 1977 c. 29, 418; 1979 c. 34; 1983 a. 27; 1985 a. 29, 39; 1987 a. 27; 1989 a. 31; 1993 a. 16, 307; 1995 a. 27; 1999 a. 150 s. 672.

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or § 76.29(2)

Section #. 79.04 (2) (a) of the statutes is amended to read:

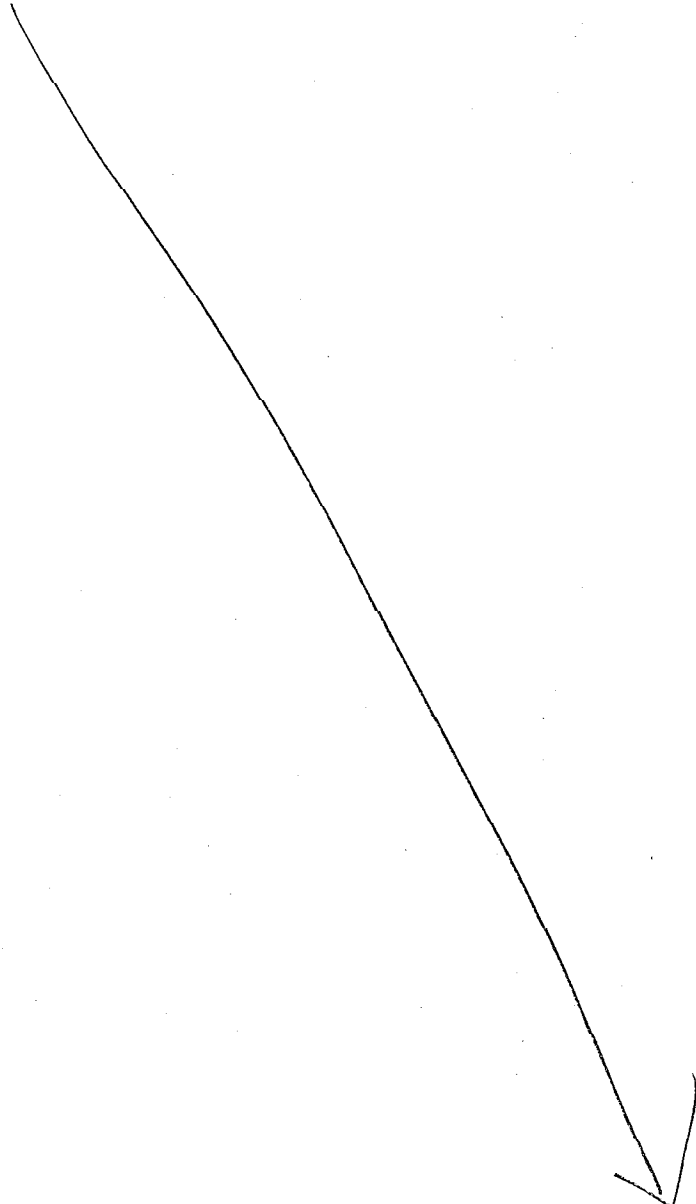
79.04 (2) (a) Annually, the department of administration, upon certification by the department of revenue, shall distribute from the shared revenue account to any county having within its boundaries a production plant or a general structure, including production plants and general structures under construction, used by a light, heat or power company assessed under s. 76.28 (2), except property described in s. 66.0813 unless the production plant is owned or operated by a local governmental unit that is located outside of the municipality in which the production plant is located, or by an electric cooperative assessed under ss. 76.07 and 76.48, respectively, or by a municipal electric company under s. 66.0825 an amount determined by multiplying by 6 mills in the case of property in a town and by 3 mills in the case of property in a city or village the first \$125,000,000 of the amount shown in the account, plus leased property, of each public utility except qualified wholesale electric companies, as defined in s. 76.28 (1) (gm), and except wholesale merchant plants, as defined in s. 196.491(1)(w) on December 31 of the preceding year for either "production plant, exclusive of land" and "general structures", or "work in progress" for production plants and general structures under construction, in the case of light, heat and power companies, electric cooperatives or municipal electric companies, for all property within the municipality in accordance with the system of accounts established by the public service commission or rural electrification administration, less depreciation thereon as determined by the department of revenue and less the value of treatment plant and pollution abatement equipment, as defined under s. 70.11 (21) (a), as determined by the department of revenue plus an amount from the shared revenue account determined by multiplying by 6 mills in the case of property in a town, and 3 mills in the case of property in a city or village, of the total original cost of production plant, general structures and work-in-progress less depreciation, land and approved waste treatment facilities of each qualified wholesale electric company, as defined in s. 76.28 (1) (gm), as reported to the department of revenue of all property within the municipality. The total of amounts, as depreciated, from the accounts of all public utilities for the same production plant is also limited to not more than \$125,000,000. The amount distributable to a county in any year shall not exceed \$100 times the population of the county.

and each wholesale merchant plant, as defined in s. 196.491(1)(w),

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NOTE: The cross-reference to s. 66.0825 was changed pursuant to 1999 Wis. Act 150, section 672, which incorrectly indicated that s. 66.073 was to be changed to s. 66.0736. Section 66.073 was renumbered to s. 66.0825 by Act 150, as shown here. Corrective legislation is pending.

History: 1971 c. 125, 215; 1973 c. 90 ss. 387, 391g; 1973 c. 243 s. 82; 1975 c. 39, 224; 1977 c. 29, 418; 1979 c. 34; 1983 a. 27; 1985 a. 29, 39; 1987 a. 27; 1989 a. 31; 1993 a. 16, 307; 1995 a. 27; 1999 a. 150 s. 672.



2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1321/fins
JK:.....

INSERT F CONTINUED

1 **SECTION 9444. Effective dates; revenue.**

2 (1) WHOLESALE MERCHANT PLANTS. The treatment of sections 76.025 (2), 76.28
3 (1) (e) (intro.) and (2) (a), 76.29, 76.48 (1r), and 79.04 (1) (a) and (c) 2. and (2) (a) of
4 the statutes takes effect on January 1, 2002.

END OF INSERT F

1321/1 dn
uk jld

date

Kerry Holden:

bill
Please review this ~~draft~~ carefully to ensure
that it is consistent with your intent. Because the
bill is based on legislation that was introduced
last session, I have changed the dates to
reflect the passage of time. Is that O.K.?

JK

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1321/1dn

JK:jld:rs

December 7, 2000

Kerry Holden:

Please review this bill carefully to ensure that it is consistent with your intent. Because the bill is based on legislation that was introduced last session, I have changed the dates to reflect the passage of time. Is that O.K.?

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1321/1

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DOA:.....Holden - Gross receipts tax on wholesale merchant plant

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

m 2-6-01

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AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TAXATION

OTHER TAXATION

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

Under the bill, a private light, heat, and power company and an electric cooperative pay a license fee to the state based, in part, on multiplying the company's or cooperative's gross revenues from the sale of wholesale electricity by 1.59%. The license fee applies to gross revenues from the sale of wholesale electricity that are earned during tax periods beginning on January 1, 2003, and ending on December 31, 2008. A private light, heat, and power company will continue to pay a license fee under current law based on multiplying its gross revenues from the sale of gas services by 0.97% and multiplying its other gross revenues, except revenues from the sale of wholesale electricity, by 3.19%. An electric cooperative will continue to pay a license fee under current law based on multiplying its gross revenues, except revenues from the sale of wholesale electricity, by 3.19%.

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

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

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

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

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

6 **SECTION 2.** 76.28 (1) (e) (intro.) of the statutes is amended to read:

7 76.28 (1) (e) (intro.) "Light, heat and power companies" means any person,
8 association, company or corporation, including corporations described in s. 66.0813,
9 qualified wholesale electric companies, wholesale merchant plants as defined in s.
10 196.491 (1) (w), and transmission companies and except only business enterprises
11 carried on exclusively either for the private use of the person, association, company
12 or corporation engaged in them, or for the private use of a person, association,
13 company or corporation owning a majority of all outstanding capital stock or who
14 control the operation of business enterprises and except electric cooperatives taxed
15 under s. 76.48 that engage in any of the following businesses:

16 **SECTION 3.** 76.28 (2) (a) of the statutes is amended to read:

17 76.28 (2) (a) ~~There~~ Except as provided in s. 76.29, there is imposed on every
18 light, heat and power company an annual license fee to be assessed by the

1 department on or before May 1, 1985, and every May 1 thereafter measured by the
2 gross revenues of the preceding year, excluding gross revenues under s. 76.29, at the
3 rates and by the methods set forth under pars. (b) to (d). The fee shall become
4 delinquent if not paid when due and when delinquent shall be subject to interest at
5 the rate of 1.5% per month until paid. Payment in full of the May 1 assessment
6 constitutes a license to carry on business for the 12-month period commencing on the
7 preceding January 1.

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

9 **76.29 License fee for selling electricity at wholesale. (1) DEFINITIONS.**

10 In this section:

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

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

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

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

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

17 (e).

18 (f) "Tax period" means each calendar year or portion of a calendar year from
19 January 1, 2003, to December 31, 2008.

20 **(2) IMPOSITION.** There is imposed on every light, heat, and power company and
21 electric cooperative that owns an electric utility plant, an annual license fee to be
22 assessed by the department on or before May 1, 2004, and every May 1 thereafter,
23 ending with the assessment on May 1, 2009, measured by the gross revenues of the
24 preceding tax period in an amount equal to the apportionment factor multiplied by
25 gross revenues multiplied by 1.59%. The fee shall become delinquent if not paid

1 when due and when delinquent shall be subject to interest at the rate of 1.5% per
2 month until paid.

3 (3) ADMINISTRATION. Section 76.28 (3) (c) and (4) to (11), as it applies to the fee
4 imposed under section 76.28 (2), applies to the fee imposed under this section.

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

6 76.48 (1r) ~~Every~~ Except as provided in s. 76.29, every electric cooperative shall
7 pay, in lieu of other general property and income or franchise taxes, an annual license
8 fee equal to its apportionment factor multiplied by its gross revenues, excluding
9 gross revenues under s. 76.29, multiplied by 3.19%. Real estate and personal
10 property not used primarily for the purpose of generating, transmitting or
11 distributing electric energy are subject to general property taxes. If a general
12 structure is used in part to generate, transmit or distribute electric energy and in
13 part for nonoperating purposes, the license fee imposed by this section is in place of
14 the percentage of all other general property taxes that fairly measures and
15 represents the extent of the use in generating, transmitting or distributing electric
16 energy, and the balance is subject to local assessment and taxation, except that the
17 entire general structure is subject to special assessments for local improvements.

18 SECTION 6. 79.03 (4) of the statutes is amended to read:

19 ~~79.03 (4) In 1991, the total amount to be distributed under ss. 79.03, 79.04 and
20 79.06 from s. 20.835 (1) (d) is \$869,000,000. In 1992, the total amount to be
21 distributed under ss. 79.03, 79.04 and 79.06 from s. 20.835 (1) (d) is \$885,961,300.
22 In 1993, the total amount to be distributed under ss. 79.03, 79.04 and 79.06 from s.
23 20.835 (1) (d) is \$903,680,500. In 1994, the total amounts to be distributed under this
24 section and ss. 79.04 and 79.06 from s. 20.835 (1) (d) are \$746,547,500 to
25 municipalities and \$168,981,800 to counties. In Beginning in 1995 and subsequent~~

1 ~~years ending in the year 2001, the total amounts to be distributed under ss. 79.03,~~
2 ~~79.04 and 79.06 from s. 20.835 (1) (d) are \$761,478,000 to municipalities and~~
3 ~~\$168,981,800 to counties. In 2002, and subsequent years, the amount to be~~
4 ~~distributed to municipalities from s. 20.835 (1) (d) shall be increased by any amounts~~
5 ~~to be paid under s. 79.04 for any qualifying property of wholesale merchant plants,~~
6 ~~located in a municipality, that did not exist in the previous year and the amount to~~
7 ~~be distributed to counties from s. 20.835 (1) (d) shall be increased by any amounts~~
8 ~~to be paid under s. 79.04 for any qualifying property of wholesale merchant plants,~~
9 ~~located in a county, that did not exist in the previous year.~~

10 **SECTION 7.** 79.04 (1) (intro.) of the statutes is amended to read:

11 79.04 (1) (intro.) Annually the department of administration, upon
12 certification by the department of revenue, shall distribute to a municipality having
13 within its boundaries a production plant or a general structure, including production
14 plants and general structures under construction, used by a light, heat, or power
15 company assessed under s. 76.28 (2) or 76.29 (2), except property described in s.
16 66.0813 unless the production plant is owned or operated by a local governmental
17 unit located outside of the municipality, or by an electric cooperative assessed under
18 ss. 76.07 and 76.48, respectively, or by a municipal electric company under s. 66.0825
19 the amount determined as follows:

20 **SECTION 8.** 79.04 (1) (a) of the statutes is amended to read:

21 79.04 (1) (a) An amount from the shared revenue account determined by
22 multiplying by 3 mills in the case of a town, and 6 mills in the case of a city or village,
23 the first \$125,000,000 of the amount shown in the account, plus leased property, of
24 each public utility except qualified wholesale electric companies, as defined in s.
25 76.28 (1) (gm), and except wholesale merchant plants, as defined in s. 196.491 (1) (w),

1 on December 31 of the preceding year for either “production plant, exclusive of land”
2 and “general structures”, or “work in progress” for production plants and general
3 structures under construction, in the case of light, heat and power companies,
4 electric cooperatives or municipal electric companies, for all property within a
5 municipality in accordance with the system of accounts established by the public
6 service commission or rural electrification administration, less depreciation thereon
7 as determined by the department of revenue and less the value of treatment plant
8 and pollution abatement equipment, as defined under s. 70.11 (21) (a), as determined
9 by the department of revenue plus an amount from the shared revenue account
10 determined by multiplying by 3 mills in the case of a town, and 6 mills in the case
11 of a city or village, of the first \$125,000,000 of the total original cost of production
12 plant, general structures and work-in-progress less depreciation, land and
13 approved waste treatment facilities of each qualified wholesale electric company, as
14 defined in s. 76.28 (1) (gm), and each wholesale merchant plant, as defined in s.
15 196.491 (1) (w), as reported to the department of revenue of all property within the
16 municipality. The total of amounts, as depreciated, from the accounts of all public
17 utilities for the same production plant is also limited to not more than \$125,000,000.
18 The amount distributable to a municipality in any year shall not exceed \$300 times
19 the population of the municipality.

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

21 79.04 (1) (c) 2. If a production plant is located in more than one municipality,
22 the total payment under subd. 1. shall be apportioned according to the amounts
23 shown on the preceding December 31 for the production plant in the account
24 described in par. (a) for “production plant exclusive of land” within each municipality
25 for all public utilities except qualified wholesale electric companies, as defined in s.

1 76.28 (1) (gm), and except wholesale merchant plants, as defined in s. 196.491 (1) (w),
2 or according to the value as reported to the department of revenue under par. (a) of
3 the production plant within each municipality for each qualified wholesale electric
4 company. The payment to each municipality under this subdivision shall be no less
5 than \$15,000 annually.

6 **SECTION 10.** 79.04 (2) (a) of the statutes is amended to read:

7 79.04 (2) (a) Annually, the department of administration, upon certification by
8 the department of revenue, shall distribute from the shared revenue account to any
9 county having within its boundaries a production plant or a general structure,
10 including production plants and general structures under construction, used by a
11 light, heat or power company assessed under s. 76.28 (2) or 76.29 (2), except property
12 described in s. 66.0813 unless the production plant is owned or operated by a local
13 governmental unit that is located outside of the municipality in which the production
14 plant is located, or by an electric cooperative assessed under ss. 76.07 and 76.48,
15 respectively, or by a municipal electric company under s. 66.0825 an amount
16 determined by multiplying by 6 mills in the case of property in a town and by 3 mills
17 in the case of property in a city or village the first \$125,000,000 of the amount shown
18 in the account, plus leased property, of each public utility except qualified wholesale
19 electric companies, as defined in s. 76.28 (1) (gm), and except wholesale merchant
20 plants, as defined in s. 196.49 (1) (w), on December 31 of the preceding year for either
21 “production plant, exclusive of land” and “general structures”, or “work in progress”
22 for production plants and general structures under construction, in the case of light,
23 heat and power companies, electric cooperatives or municipal electric companies, for
24 all property within the municipality in accordance with the system of accounts
25 established by the public service commission or rural electrification administration,

1 less depreciation thereon as determined by the department of revenue and less the
2 value of treatment plant and pollution abatement equipment, as defined under s.
3 70.11 (21) (a), as determined by the department of revenue plus an amount from the
4 shared revenue account determined by multiplying by 6 mills in the case of property
5 in a town, and 3 mills in the case of property in a city or village, of the total original
6 cost of production plant, general structures and work-in-progress less depreciation,
7 land and approved waste treatment facilities of each qualified wholesale electric
8 company, as defined in s. 76.28 (1) (gm), and each wholesale merchant plant, as
9 defined in s. 196.491 (1) (w), as reported to the department of revenue of all property
10 within the municipality. The total of amounts, as depreciated, from the accounts of
11 all public utilities for the same production plant is also limited to not more than
12 \$125,000,000. The amount distributable to a county in any year shall not exceed
13 \$100 times the population of the county.

14 **SECTION 9444. Effective dates; revenue.**

15 (1) WHOLESALE MERCHANT PLANTS. The treatment of sections 76.025 (2), 76.28
16 (1) (e) (intro.) and (2) (a), 76.29, 76.48 (1r), and 79.04 (1) (a) and (c) 2. and (2) (a) of
17 the statutes takes effect on January 1, 2002.

18 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1321/Adn²
JK:jld:rs

Kerry Holden:

This draft reconciles LRB-1321 and LRB-1744. Both of these drafts should continue to appear in the compiled bill.

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1321/2dn

JK:jld:ch

February 7, 2001

Kerry Holden:

This draft reconciles LRB-1321 and LRB-1744. Both of these drafts should continue to appear in the compiled bill.

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DOA:.....Holden – Gross receipts tax on wholesale merchant plant
FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TAXATION

OTHER TAXATION

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

Under the bill, a private light, heat, and power company and an electric cooperative pay a license fee to the state based, in part, on multiplying the company's or cooperative's gross revenues from the sale of wholesale electricity by 1.59%. The license fee applies to gross revenues from the sale of wholesale electricity that are earned during tax periods beginning on January 1, 2003, and ending on December 31, 2008. A private light, heat, and power company will continue to pay a license fee under current law based on multiplying its gross revenues from the sale of gas services by 0.97% and multiplying its other gross revenues, except revenues from the sale of wholesale electricity, by 3.19%. An electric cooperative will continue to pay a license fee under current law based on multiplying its gross revenues, except revenues from the sale of wholesale electricity, by 3.19%.

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

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

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

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

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

6 **SECTION 2.** 76.28 (1) (e) (intro.) of the statutes is amended to read:

7 76.28 (1) (e) (intro.) "Light, heat and power companies" means any person,
8 association, company or corporation, including corporations described in s. 66.0813,
9 qualified wholesale electric companies, wholesale merchant plants as defined in s.
10 196.491 (1) (w), and transmission companies and except only business enterprises
11 carried on exclusively either for the private use of the person, association, company
12 or corporation engaged in them, or for the private use of a person, association,
13 company or corporation owning a majority of all outstanding capital stock or who
14 control the operation of business enterprises and except electric cooperatives taxed
15 under s. 76.48 that engage in any of the following businesses:

16 **SECTION 3.** 76.28 (2) (a) of the statutes is amended to read:

17 76.28 (2) (a) There Except as provided in s. 76.29, there is imposed on every
18 light, heat and power company an annual license fee to be assessed by the

1 department on or before May 1, 1985, and every May 1 thereafter measured by the
2 gross revenues of the preceding year, excluding gross revenues under s. 76.29, at the
3 rates and by the methods set forth under pars. (b) to (d). The fee shall become
4 delinquent if not paid when due and when delinquent shall be subject to interest at
5 the rate of 1.5% per month until paid. Payment in full of the May 1 assessment
6 constitutes a license to carry on business for the 12-month period commencing on the
7 preceding January 1.

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

9 **76.29 License fee for selling electricity at wholesale. (1) DEFINITIONS.**

10 In this section:

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

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

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

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

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

18 (f) "Tax period" means each calendar year or portion of a calendar year from
19 January 1, 2003, to December 31, 2008.

20 (2) IMPOSITION. There is imposed on every light, heat, and power company and
21 electric cooperative that owns an electric utility plant, an annual license fee to be
22 assessed by the department on or before May 1, 2004, and every May 1 thereafter,
23 ending with the assessment on May 1, 2009, measured by the gross revenues of the
24 preceding tax period in an amount equal to the apportionment factor multiplied by
25 gross revenues multiplied by 1.59%. The fee shall become delinquent if not paid

1 when due and when delinquent shall be subject to interest at the rate of 1.5% per
2 month until paid.

3 (3) ADMINISTRATION. Section 76.28 (3) (c) and (4) to (11), as it applies to the fee
4 imposed under section 76.28 (2), applies to the fee imposed under this section.

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

6 76.48 (1r) ~~Every~~ Except as provided in s. 76.29, every electric cooperative shall
7 pay, in lieu of other general property and income or franchise taxes, an annual license
8 fee equal to its apportionment factor multiplied by its gross revenues, excluding
9 gross revenues under s. 76.29, multiplied by 3.19%. Real estate and personal
10 property not used primarily for the purpose of generating, transmitting or
11 distributing electric energy are subject to general property taxes. If a general
12 structure is used in part to generate, transmit or distribute electric energy and in
13 part for nonoperating purposes, the license fee imposed by this section is in place of
14 the percentage of all other general property taxes that fairly measures and
15 represents the extent of the use in generating, transmitting or distributing electric
16 energy, and the balance is subject to local assessment and taxation, except that the
17 entire general structure is subject to special assessments for local improvements.

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

19 79.04 (1) (intro.) Annually the department of administration, upon
20 certification by the department of revenue, shall distribute to a municipality having
21 within its boundaries a production plant or a general structure, including production
22 plants and general structures under construction, used by a light, heat, or power
23 company assessed under s. 76.28 (2) or 76.29 (2), except property described in s.
24 66.0813 unless the production plant is owned or operated by a local governmental
25 unit located outside of the municipality, or by an electric cooperative assessed under

1 ss. 76.07 and 76.48, respectively, or by a municipal electric company under s. 66.0825
2 the amount determined as follows:

3 **SECTION 7.** 79.04 (1) (a) of the statutes is amended to read:

4 79.04 (1) (a) An amount from the shared revenue account determined by
5 multiplying by 3 mills in the case of a town, and 6 mills in the case of a city or village,
6 the first \$125,000,000 of the amount shown in the account, plus leased property, of
7 each public utility except qualified wholesale electric companies, as defined in s.
8 76.28 (1) (gm), and except wholesale merchant plants, as defined in s. 196.491 (1) (w),
9 on December 31 of the preceding year for either “production plant, exclusive of land”
10 and “general structures”, or “work in progress” for production plants and general
11 structures under construction, in the case of light, heat and power companies,
12 electric cooperatives or municipal electric companies, for all property within a
13 municipality in accordance with the system of accounts established by the public
14 service commission or rural electrification administration, less depreciation thereon
15 as determined by the department of revenue and less the value of treatment plant
16 and pollution abatement equipment, as defined under s. 70.11 (21) (a), as determined
17 by the department of revenue plus an amount from the shared revenue account
18 determined by multiplying by 3 mills in the case of a town, and 6 mills in the case
19 of a city or village, of the first \$125,000,000 of the total original cost of production
20 plant, general structures and work-in-progress less depreciation, land and
21 approved waste treatment facilities of each qualified wholesale electric company, as
22 defined in s. 76.28 (1) (gm), and each wholesale merchant plant, as defined in s.
23 196.491 (1) (w), as reported to the department of revenue of all property within the
24 municipality. The total of amounts, as depreciated, from the accounts of all public
25 utilities for the same production plant is also limited to not more than \$125,000,000.

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

3 **SECTION 8.** 79.04 (1) (c) 2. of the statutes is amended to read:

4 79.04 (1) (c) 2. If a production plant is located in more than one municipality,
5 the total payment under subd. 1. shall be apportioned according to the amounts
6 shown on the preceding December 31 for the production plant in the account
7 described in par. (a) for "production plant exclusive of land" within each municipality
8 for all public utilities except qualified wholesale electric companies, as defined in s.
9 76.28 (1) (gm), and except wholesale merchant plants, as defined in s. 196.491 (1) (w).
10 or according to the value as reported to the department of revenue under par. (a) of
11 the production plant within each municipality for each qualified wholesale electric
12 company. The payment to each municipality under this subdivision shall be no less
13 than \$15,000 annually.

14 **SECTION 9.** 79.04 (2) (a) of the statutes is amended to read:

15 79.04 (2) (a) Annually, the department of administration, upon certification by
16 the department of revenue, shall distribute from the shared revenue account to any
17 county having within its boundaries a production plant or a general structure,
18 including production plants and general structures under construction, used by a
19 light, heat or power company assessed under s. 76.28 (2) or 76.29 (2), except property
20 described in s. 66.0813 unless the production plant is owned or operated by a local
21 governmental unit that is located outside of the municipality in which the production
22 plant is located, or by an electric cooperative assessed under ss. 76.07 and 76.48,
23 respectively, or by a municipal electric company under s. 66.0825 an amount
24 determined by multiplying by 6 mills in the case of property in a town and by 3 mills
25 in the case of property in a city or village the first \$125,000,000 of the amount shown

1 in the account, plus leased property, of each public utility except qualified wholesale
2 electric companies, as defined in s. 76.28 (1) (gm), and except wholesale merchant
3 plants, as defined in s. 196.49 (1) (w), on December 31 of the preceding year for either
4 “production plant, exclusive of land” and “general structures”, or “work in progress”
5 for production plants and general structures under construction, in the case of light,
6 heat and power companies, electric cooperatives or municipal electric companies, for
7 all property within the municipality in accordance with the system of accounts
8 established by the public service commission or rural electrification administration,
9 less depreciation thereon as determined by the department of revenue and less the
10 value of treatment plant and pollution abatement equipment, as defined under s.
11 70.11 (21) (a), as determined by the department of revenue plus an amount from the
12 shared revenue account determined by multiplying by 6 mills in the case of property
13 in a town, and 3 mills in the case of property in a city or village, of the total original
14 cost of production plant, general structures and work-in-progress less depreciation,
15 land and approved waste treatment facilities of each qualified wholesale electric
16 company, as defined in s. 76.28 (1) (gm), and each wholesale merchant plant, as
17 defined in s. 196.491 (1) (w), as reported to the department of revenue of all property
18 within the municipality. The total of amounts, as depreciated, from the accounts of
19 all public utilities for the same production plant is also limited to not more than
20 \$125,000,000. The amount distributable to a county in any year shall not exceed
21 \$100 times the population of the county.

22 **SECTION 9444. Effective dates; revenue.**

