

2001 DRAFTING REQUEST

Bill

Received: 02/02/2001

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 - property

Extra Copies:

Pre Topic:

DOA:.....Holden -

Topic:

Taxation of public utility holding company

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>
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/1	jkreye 02/02/2001	jdyer 02/02/2001	rschluet 02/02/2001	_____	lrb_docadmin 02/02/2001		

FE Sent For:

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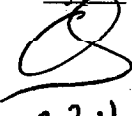
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1?	jkreye	1 2/2 jld	 22.1	_____	_____	_____	_____

FE Sent For:

<END>

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DIVISION OF EXECUTIVE BUDGET AND FINANCE
OCA-5167 N(ROB/SS)

FACSIMILE COVER MESSAGE

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TO		
Name	Steve Miller	Facsimile Telephone Number
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FROM (Sender)		
Name	Kerry Holden	Facsimile Telephone Number
		(608) 267-0372
Location	101 East Wilson Street, 10th Floor; Madison, WI 53702	Telephone Number
		206-8593
	Number of Pages Including This Cover Sheet	5

COMMENTS / INSTRUCTIONS

Please draft the attached for inclusion in the Governor's budget. Please call w/ any questions.

Kerry

A page was omitted on the last fax!
This contains all pages.

DRAFT: Not for distribution at this time

Wisconsin Department of Revenue
Division of Research and Analysis
January 23, 2001

Topic: Utility Taxes

Issue: Should the tax treatment of service companies organized pursuant to the Public Utilities Holding Company Act be changed?

A. BACKGROUND

Public utilities are subject to state taxation instead of local property taxes. In the case of light, heat, and power companies, the state tax is a gross revenues tax. Gross revenues from gas services are taxed at 0.97%. Other revenues (electric, water, and steam) are taxed at 3.19%.

B. PROBLEMS WITH CURRENT LAW

In April 1998, WPL Holdings (owner of Wisconsin Power and Light Company) merged with two Iowa utilities and their holding companies to form Alliant Energy (Alliant). Alliant was required to register with the U. S. Securities and Exchange Commission (SEC) as a public utility holding company under the Public Utilities Holding Companies Act of 1935 (PUCHA).

The PUCHA law requires Alliant Energy to provide certain services to its member companies through a service subsidiary. This subsidiary, Alliant Energy Corporate Services (Corporate Services), provides information technology, human resources, finance, accounting, legal, and corporate communications services to Alliant's other subsidiaries. As required by PUCHA, Corporate Services provides these services at cost (i. e., it is not to be a profit center for Alliant).

Alliant is headquartered in Madison, Wisconsin. A large office facility is being constructed for Alliant in the "American Family" office park in the City of Madison. Alliant is apparently planning to lease the facility (land and building). The building is expected to be completed and occupied in the Spring of 2002. Alliant has told us that Corporate Services will sign the lease for the new facility in Madison.

Because Corporate Services does not provide electric, gas, or other utility services, it is not considered a utility for taxation purposes under Chapters 70 (property taxes), 76 (utility taxes), and 79 (shared revenues). As such, it is not subject to the gross revenues tax on utilities. Instead, its property is subject to the local property tax.

In addition, since Corporate Services is not a utility, the allocation of revenues to Wisconsin by Wisconsin Power and Light for purposes of the gross revenues tax is also affected. The percentage of a utility's revenue allocated to Wisconsin is based on the average of three percentages: (1) the percentage of total gross revenues in Wisconsin, (2) the percentage of total

property by value in Wisconsin, and (3) the percentage of total payroll in Wisconsin. Payments for services to entities like Corporate Services are not considered utility payroll for this allocation (i. e., it is not in the numerator or the denominator of the payroll factor). Thus, the payroll factor of a utility owned by a PUCHA holding company is not comparable to other utilities.

Based on the above, Alliant believes that the current tax treatment is unfair. Utility companies not members of a holding company and utility holding companies not subject to PUCHA (such as Wisconsin Energy and WPS Resources) have certain tax advantages compared to utilities owned by a holding company under PUCHA. Alliant seeks to correct this situation.

C. ALTERNATIVES

Alternative 1

Alliant proposes that property (land and structures) owned or leased by a corporation organized pursuant to PUCHA regulations (like Corporate Services) be exempt from local property taxes to the extent that services are provided to utilities taxed under Chapter 76 (like Wisconsin Power and Light). Thus, if 25% of the PUCHA-mandated service company's services were provided to a utility taxed under Chapter 76, then 25% of the value of the property would be exempt from local property taxes. The exempt portion of the building would also qualify for shared revenue payments under Chapter 79. Alliant did not specify how the percentage of services would be determined. They stated that the determination should fairly reflect the services provided to eligible utilities. The percentage of Corporate Services' revenues from eligible utilities would be a good candidate for such a determination.

Alliant also proposes that the management and service fees paid to a company like Corporate Services by a Wisconsin utility be considered payroll (in both the Wisconsin portion and overall total) when calculating the payroll allocation factor for gross revenues taxes.

Alternative 2

Alternative 2 is the same as Alternative 1 except for the taxation of land. Land is now taxed according to predominant use. Thus, if 50% or more of a building is used for an exempt purpose, then the land is exempt. Otherwise, the land is subject to local property taxes. The department feels that this treatment should be retained to keep the taxation of land as uniform as possible for all types of utility companies.

Alternative 3

Current law should be retained.

D. FISCAL EFFECTS OF ALTERNATIVES

Alternative 1

The proposal is essentially neutral regarding state gross revenues taxes. The change in the allocation factor would have little, if any, effect on the revenue allocated to Wisconsin by Wisconsin Power and Light Company.

Under current law, Corporate Services' land and building are subject to local property taxation in the City of Madison. Based on the expected annual rent of the facility at current interest rates, the total value of the facility is expected to be about \$25 million (\$2.5 million for the land and \$22.5 million for the building.)

Under the proposal, the building would be exempt to the extent Corporate Services provides services to Wisconsin Power and Light and the land would be exempt if providing such services is the predominant (50% or more) use of the new facility. Based on preliminary information from Alliant, the predominant use (roughly estimated at 55%) of the new facility will be to provide services to Wisconsin Power & Light. Therefore, \$2.5 million of land and about \$12.5 million of the building value would be exempt, leaving \$10 million of the building value subject to local property taxes (by Dane County, City of Madison, and the Sun Prairie School District). The \$15 million in value of exempt buildings would generate a utility shared revenue payment to the City of Madison of \$90,000 and to Dane County of \$45,000.

The effect of the proposal on the owner of an average home (estimated market value of \$150,000), including the effects on state aids, would be as follows:

Tax District	Actual 1999/2000	Alliant on Tax Roll	Change from Actual	Alliant as Proposed	Change from Actual	Change from Alliant on Tax Roll
City of Madison	\$1,347.74	\$1,344.80	\$ -2.94	\$1,345.38	\$ -2.36	\$ 0.59
Dane County	\$ 512.84	\$ 512.31	\$ -0.53	\$ 512.35	\$ -0.49	\$ 0.04
Sun Prairie Schools	\$1,830.16	\$1,830.76	\$ 0.60	\$1,830.40	\$ 0.24	\$ -0.36

Thus, for an average home, the proposal would increase the City of Madison property tax by \$0.59, increase the Dane County property tax by \$0.04, and decrease the Sun Prairie School District tax by \$0.36, for a total tax increase of \$0.27. (The calculation of these figures is shown in the attachments.)

Alternative 2

As long as the predominant use of the new building would be to provide services to Wisconsin Power and Light, the fiscal effects are the same as under alternative 1. However, if the predominant use of the new facility is not providing services to Wisconsin Power and Light, then the land would be subject to local property taxes.

Alternative 3

This alternative has no effect of state or local taxes.

E. RECOMMENDATION

The Department believes that Alternative 2 is the best solution. We generally agree with Alliant's proposal. However, we wish to retain the current tax treatment of land. This will avoid the potential for extensive litigation with other utility companies whose land is taxed based on predominant use.

F. DRAFTING INSTRUCTIONS

(1) Renumber s. 70.1105 as 70.1105 (1)

(2) Create s. 70.1105 (2) to read:

Property, excluding land, owned or leased by a corporation providing services in accordance with the Public Utility Holding Company Act of 1935, 15 USCS 79, to an affiliated light, heat and power company subject to taxation under s. 76.28 shall be assessed for taxation only at that portion of the fair market value of the property that fairly measures and represents the portion of the property not used in providing such services.

(3) Amend s. 76.28 (1) (f) by adding the following sentence at the end of the subsection:

Compensation includes management or service fees paid to a related service corporation pursuant to the Public Utilities Holding Company Act of 1935, 15 USCS 79, for management and personal services, and the situs of those fees is in this state if the services fulfill one of the requirements of the preceding sentence.

amend 70.11(9)
614.80



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-2389/7

JK:.....

JLD RMR

DOA:.....Holden - Taxation of public utility holding company

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

in 1-2-01
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Do not gen

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

Analysis by the Legislative Reference Bureau

TAXATION ✓

PROPERTY TAXATION ✓

Under current law, in lieu of paying local property taxes, a light, heat, and power company pays a license fee to the state based on a percentage of the company's gross revenue that is attributable to this state. However, if a light, heat, and power company structure is used in part for the company's business operation and in part for purposes that are not related to the company's business operation, the part of the structure that is used for purposes that are not related to the company's business operation is subject to local property taxes.

Under this bill, property, excluding land, that is owned or leased by a public utilities holding company that provides services to a light, heat, and power company affiliated with the holding company is assessed for local property taxes on the portion of the fair market value of the property that is not used for providing services to the light, heat, and power company.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

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. 70.11 (9)^X of the statutes is amended to read:

2 70.11 (9) MEMORIALS. All memorial halls and the real estate upon which the
3 same are located, owned and occupied by any organization of United States war
4 veterans organized pursuant to act of congress and domesticated in this state
5 pursuant to the laws of this state, containing permanent memorial tablets with the
6 names of former residents of any given town, village, city or county who lost their
7 lives in the military or naval service of the state or the United States in any war
8 inscribed thereon, and all personal property owned by such organizations, and all
9 buildings erected, purchased or maintained by any county, city, town or village as
10 memorials under s. 45.05 or 45.055. The renting of such halls or buildings for public
11 purposes shall not render them taxable, provided that all income derived therefrom
12 be used for the upkeep and maintenance thereof. Where such hall or building is used
13 in part for exempt purposes and in part for pecuniary profit, it shall be assessed for
14 taxation to the extent of such use for pecuniary profit as provided in s. 70.1105[✓] (1).

History: 1971 c. 152, 154, 312; 1973 c. 90; 1973 c. 333 s. 201m; 1973 c. 335 s. 13; 1975 c. 39; 1975 c. 94 s. 91 (10); 1975 c. 199; 1977 c. 29 ss. 745m, 1646 (3), 1647 (5), (7); 1977 c. 83 s. 26; 1977 c. 273, 282, 391, 418, 447; 1979 c. 34 s. 2102 (39) (g); 1979 c. 221, 225; 1979 c. 310 s. 12; 1981 c. 20; 1983 a. 27 ss. 1177, 1178, 1179f; 1983 a. 189 s. 329 (16); 1983 a. 201, 327; 1985 a. 26, 29, 316, 332; 1987 a. 10, 27, 395, 399; 1987 a. 403 s. 256; 1989 a. 25, 31, 307; 1991 a. 37, 39, 269; 1993 a. 263, 307, 399, 490; 1995 a. 27 ss. 3344 to 3348m, 9126 (19); 1995 a. 201, 227, 247, 366; 1997 a. 27, 35, 134, 147, 164, 184, 237; 1999 a. 9, 32, 63, 65; 1999 a. 150 ss. 624, 672; 1999 a. 167, 185; s. 13.93 (1) (b).

15 SECTION 2. 70.11^O₅ of the statutes is renumbered 70.11^O₅ (1).

16 SECTION 3. 70.11^O₅ (2)^X of the statutes is created to read:

17 70.11^O₅ (2) Property, excluding land, that is owned or leased by a corporation
18 that provides services pursuant to 15 USC 79 to a light, heat, and power company, as
19 defined under s. 76.28 (1) (e)[✓], that is subject to taxation under s. 76.28[✓] and that is

1 affiliated with the corporation shall be assessed for taxation at the portion of the fair
2 market value of the property that is not used to provide such services.

3 **SECTION 4.** 76.28 (1) (f) of the statutes is amended to read:

4 76.28 (1) (f) "Payroll factor" means a fraction the numerator of which is the total
5 amount paid in this state during the tax period by the taxpayer for compensation and
6 the denominator of which is the total compensation paid everywhere during the tax
7 period, except that compensation solely related to the production of nonoperating
8 revenues shall be excluded from the numerator and denominator of the payroll factor
9 and except that compensation related to the production of both operating and
10 nonoperating revenue shall be partially excluded from the numerator and
11 denominator of the payroll factor so as to exclude as near as possible the portion of
12 compensation related to the production of nonoperating revenue. Compensation is
13 paid in this state if the individual's service is performed entirely within this state,
14 or if the individual's service is performed both within and outside this state but the
15 service performed outside this state is incidental to the individual's service within
16 this state, or if some of the service is performed in this state and the base of operations
17 or, if there is no base of operations, the place from which the service is directed or
18 controlled is in this state or the base of operations or the place from which the service
19 is directed or controlled is not in any state in which part of the service is performed
20 and the individual's residence is in this state. In this paragraph, "compensation"
21 includes management and service fees paid to an affiliated service corporation
22 pursuant to 15 USC 79.

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

SECTION 5. 614.80 of the statutes is amended to read:

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2389/dn

JK:.....

JLD

Kerry Holden:

Please review this draft carefully to ensure that it is consistent with your intent. Because the instructions do not specify when the changes should take effect, I chose the earliest possible effective dates that would be consistent with the changes. Therefore, the bill first applies to the property tax assessments as of January 1, 2001, and the license fee assessments as of May 1, 2002. Is that okay? *

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2389/1dn
JK:jld:rs

February 2, 2001

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DOA:.....Holden – Taxation of public utility holding company

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

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

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15 **SECTION 2.** 70.1105 of the statutes is renumbered 70.1105 (1).

16 **SECTION 3.** 70.1105 (2) of the statutes is created to read:

17 **70.1105 (2)** Property, excluding land, that is owned or leased by a corporation
18 that provides services pursuant to 15 USC 79 to a light, heat, and power company,
19 as defined under s. 76.28 (1) (e), that is subject to taxation under s. 76.28 and that
20 is affiliated with the corporation shall be assessed for taxation at the portion of the
21 fair market value of the property that is not used to provide such services.

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15 or, if there is no base of operations, the place from which the service is directed or
16 controlled is in this state or the base of operations or the place from which the service
17 is directed or controlled is not in any state in which part of the service is performed
18 and the individual's residence is in this state. In this paragraph, "compensation"
19 includes management and service fees paid to an affiliated service corporation
20 pursuant to 15 USC 79.

21 **SECTION 5.** 614.80 of the statutes is amended to read:

22 **614.80 Tax exemption.** Every domestic and nondomestic fraternal, except
23 those that offer a health maintenance organization as defined in s. 609.01 (2) or a
24 limited service health organization as defined in s. 609.01 (3) is exempt from all state,
25 county, district, municipal and school taxes or fees, except the fees required by s.

1 601.31 (2), but is required to pay all taxes and special assessments on its real estate
2 and office equipment, except as provided in ss. 70.11 (4) and 70.1105 (1).

3 **SECTION 9344. Initial applicability; revenue.**

4 (1) PROPERTY TAXED IN PART. The renumbering of section 70.1105 of the statutes
5 and the creation of section 70.1105 (2) of the statutes first applies to the property tax
6 assessments as of January 1, 2001.

7 (2) LICENSE FEE FOR LIGHT, HEAT, AND POWER COMPANY. The treatment of section
8 76.28 (1) (f) of the statutes first applies to the license fee assessments as of May 1,
9 2002.

10 (END)