

2001 DRAFTING REQUEST

Senate Amendment (SA-SSA1-SB55)

Received: 07/17/2001

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Renner**

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

Drafter: **kunkemd**

May Contact:

Addl. Drafters:

Subject: **Public Util. - electric**

Extra Copies:

Submit via email: **NO**

Requester's email:

Pre Topic:

LFB:.....Renner -

Topic:

Leased generation contracts

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kunkemd 07/17/2001	wjackson 07/17/2001		_____			
/1			haueca 07/17/2001	_____	lrb_docadmin 07/17/2001		

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/?	kunkemd		CH 7-17	CH 7-17			

FE Sent For:

<END>



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 257-5873

Date: _____

DELIVER TO: Mark Kunkel

Addressee Fax #: _____ Addressee Phone #: _____

of Pages, Including Cover: 4 Sender's Initials: DR

From: Darin Renner

Message:

① Distributed Generation Standards (attached)
- This will replace the Joint Finance draft 316/1

② On draft 1821/2 - make the cap effective beginning 2001-02 in the ~~amount~~ amounts of \$5,250,000 in 2001-02 and \$6,250,000 in 2002-03.

③ Draft 1991/3 will be a conference committee draft

④ Stray voltage + electrical rewiring assistance (1504/1)
- PSC will be required to require utilities (including co-operatives) to establish from rewiring programs. There is no specified amount they need to contribute. Further modify the Public Benefit energy efficiency language to include eligibility for agricultural energy conservation programs.

D-NOTE

b 2131/1

RM not
pun

**SENATE AMENDMENT ,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2001 SENATE BILL 55**

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

2 **1.** Page 985, line 20: after that line insert:

3 **"SECTION 2972b.** 196.01 (5) (b) 6. of the statutes is created to read:

4 196.01 (5) (b) 6. A person that owns an electric generating facility or
5 improvement to an electric generating facility that is subject to a leased generation
6 contract, as defined in s. 196.52 (9) (a) 3., unless the person furnishes, directly to the
7 public, telecommunications or sewer service, heat, light, water or power or, by means
8 of pipes or mains, natural gas."

9 **2.** Page 992, line 12: after that line insert:

10 **"SECTION 3001b.** 196.491 (1) (w) of the statutes is renumbered 196.491 (1) (w)
11 1., and 196.491 (1) (w) 1. (intro.), as renumbered, is amended to read:

1 196.491 (1) (w) 1. (intro.) “Wholesale merchant plant” means, except as
2 provided in subd. 2., electric generating equipment and associated facilities located
3 in this state that do not provide service to any retail customer and that are owned
4 and operated by any of the following:

5 **SECTION 3001d.** 196.491 (1) (w) 2. of the statutes is created to read:

6 196.491 (1) (w) 2. “Wholesale merchant plant” does not include an electric
7 generating facility or an improvement to an electric generating facility that is subject
8 to a leased generation contract, as defined in s. 196.52 (9) (a) 3.”.

9 **3.** Page 995, line 11: delete the material beginning with that line and ending
10 with page 998, line 17, and substitute:

11 **“SECTION 3008mc.** 196.52 (9) of the statutes is created to read:

12 196.52 (9) (a) In this subsection:

13 1. “Electric generating equipment” means any of the following:

14 a. An electric generator.

15 b. A machine that drives an electric generator, including an engine, turbine,
16 water wheel, or wind mill.

17 c. Equipment that converts a fuel or source of energy into energy that powers
18 a machine that drives an electric generator, including a boiler, but not including a
19 nuclear reactor.

20 d. A fuel or photovoltaic cell.

21 2. “Electric generating facility” means electric generating equipment and
22 associated facilities that, together, constitute a complete facility for the generation
23 of electricity.

1 3. “Leased generation contract” means a contract or arrangement or set of
2 contracts or arrangements under which an affiliated interest of a public utility
3 agrees with the public utility to construct or improve an electric generating facility
4 and to lease to the public utility land and the facility for operation by the public
5 utility.

6 (b) The commission may approve a leased generation contract under sub. (3)
7 only if all of the following apply:

8 1. The commission has not issued a certificate under s. 196.49 or a certificate
9 of public convenience and necessity under s. 196.491 (3) before January 1, 2002, for
10 any construction or improvement that is subject to the leased generation contract.

11 2. Construction or improvement of the electric generating facility that is
12 subject to the leased generation contract commences on or after January 1, 2002.

13 3. Except as provided in s. 196.795 (5) (k) 3., no electric generating facility,
14 electric generating equipment, or associated facilities, held or used by the public
15 utility for the provision of electric service, is transferred to the affiliated interest.

16 4. The estimated gross cost of the construction or improvement that is subject
17 to the leased generation contract is at least \$10,000,000.

18 5. The construction or improvement is not to a nuclear-powered facility.

19 6. Any real property that the public utility transfers to the affiliated interest
20 for the purpose of implementing the leased generation contract is transferred at book
21 value, which is determined on the basis of the regulated books of account at the time
22 of the transfer.

23 7. If the public utility transfers real property to the affiliated interest for the
24 purpose of implementing the leased generation contract, the leased generation
25 contract provides for transferring that real property back to the public utility, on the

1 same terms and conditions as the original transfer, if the commission determines
2 that the construction or improvement that is subject to the leased generation
3 contract has not been completed.

4 8. The leased generation contract provides that, upon termination of the
5 contract, all of the following apply:

6 a. The public utility shall have the option, subject to commission approval, to
7 extend the contract, or purchase the electric generating facility or the improvements
8 to an electric generating facility, at fair market value as determined by a valuation
9 process that is conducted by an independent third party and that is specified in the
10 contract.

11 b. If the public utility exercises the option specified in subd. 8. a., the affiliated
12 interest may require the public utility to extend the contract, rather than purchase
13 the facilities or improvements, if the affiliated interest demonstrates to the
14 commission that the extension avoids material adverse tax consequences and that
15 the extension provides terms and conditions that are economically equivalent to a
16 purchase.

17 9. For any gas-fired electric generating facility that is constructed under the
18 leased generation contract, the term of the lease is 20 years or more.

19 10. For any coal-fired electric generating facility that is constructed under the
20 leased generation contract, the term of the lease is 25 years or more.

21 11. The leased generation contract does not take effect until the date on which
22 the affiliated interest commences construction or improvement of the electric
23 generating facility, except that, if the leased generation contract relates to the
24 construction or improvement of more than one electric generating facility, the leased
25 generation contract does not take effect with respect to the construction or

1 improvement of an individual electric generating facility until the date on which the
2 affiliated interest commences construction or improvement on that electric
3 generating facility.

4 (c) Except as provided in par. (d), the commission may not increase or decrease
5 the retail revenue requirements of a public utility on the basis of any income,
6 expense, gain, or loss that is received or incurred by an affiliated interest of the public
7 utility and that arises from the ownership of an electric generating facility or an
8 improvement to an electric generating facility by an affiliated interest under a leased
9 generation contract.

10 (d) The commission shall allow a public utility that has entered into a leased
11 generation contract that has been approved by the commission under sub. (3) to
12 recover fully in its retail rates that portion of any payments under the leased
13 generation contract that the commission allocates to the public utility's retail electric
14 service, and that portion of all other costs that is prudently incurred in the public
15 utility's operation and maintenance of the electric generating facility or
16 improvement that is subject to the leased generation contract and that the
17 commission allocates to the public utility's retail electric service.

18 (e) Notwithstanding sub. (5) (a), the commission may not modify or terminate
19 a leased generation contract approved under sub. (3) except as specified in the leased
20 generation contract or the commission's order approving the leased generation
21 contract.

22 (f) The commission shall maintain jurisdiction to ensure that the construction
23 or improvement under a leased generation contract approved under sub. (3) is
24 completed as provided in the leased generation contract.

1 (g) Nothing in this subsection prohibits a cooperative association organized
2 under ch. 185, a municipal utility, as defined in s. 196.377 (2) (a) 3., or a municipal
3 electric company, as defined in s. 66.0825 (3) (d), from acquiring an interest in an
4 electric generating facility that is constructed pursuant to a leased generation
5 contract or from acquiring an interest in land on which such an electric generating
6 facility is located.”.

7 **4.** Page 999, line 6: delete lines 6 to 12 and substitute:

8 “**SECTION 3011jc.** 196.795 (5) (k) 3. of the statutes is created to read:

9 196.795 (5) (k) 3. For the purpose of implementing a leased generation
10 contract, as defined in s. 196.52 (9) (a) 3., that is approved under s. 196.52 (3), a public
11 utility affiliate may transfer to a nonutility affiliate, at book value determined on the
12 basis of the regulated books of account at the time of the transfer, any of the following:

13 a. Land that is held or used for the provision of utility service.

14 b. Electric generating equipment or associated facilities that are located on the
15 land on which an electric generating facility subject to a leased generation contract
16 is to be constructed, and that are part of an electric generating facility on that land
17 that is no longer used or useful for the provision of utility service and that has been
18 retired from the provision of utility service.”.

19 **5.** Page 1403, line 1: delete lines 1 to 4 and substitute:

20 “(4wxm) **LEASED GENERATION CONTRACTS.** The treatment of sections 196.491 (1)
21 (w) 2., 196.52 (9), and 196.795 (5) (k) 1. and 3. of the statutes and the renumbering
22 and amendment of section 196.491 (1) (w) of the statutes first apply to leased

1 generation contracts that are entered into, modified, renewed, or extended on the
2 effective date of this subsection.”.

3 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb2131/1dn

MDK./.....

WJ

Darin Renner:

This amendment is identical to LRBb1991/3.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb2131/1dn
MDK:wlj:ch

July 17, 2001

Darin Renner:

This amendment is identical to LRBb1991/3.

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E-mail: mark.kunkel@legis.state.wi.us



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBb2131/1
MDK:wlj&kg:ch

LFB:.....Renner – Leased generation contracts

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

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TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

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5 in this state that do not provide service to any retail customer and that are owned
6 and operated by any of the following:

7 **SECTION 3001d.** 196.491 (1) (w) 2. of the statutes is created to read:

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4

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