



JK:....
Kmg

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 1-9-09

D-N

due Fri. 1-16

Gen. Cat.

1 AN ACT ...; relating to: public utility aid payments, imposing local general
 2 property taxes on production plant general structures and substations, and
 3 creating a credit against license fees imposed on light, heat, and power
 4 companies and electric cooperatives.

Analysis by the Legislative Reference Bureau

Under current law, beginning in 2005, each county and municipality in which a power production plant is located receives a state aid payment based on the net book value of the production plant, for production plants that, generally, began operation before January 1, 2004, or based on the production plant's megawatt capacity, for production plants that began operation after December 31, 2003. Under this bill, beginning in 2005, each county and municipality in which a power production plant is located will receive a state aid payment based on the production plant's megawatt capacity, except that, if the production plant is a hydroelectric plant or a wind farm, the county and municipality will receive a payment based on the net book value of the hydroelectric plant or wind farm. In addition, under current law, for a hydroelectric plant or wind farm that is built after December 31, 2003, the county and municipality in which the plant or wind farm is located will receive an additional payment, beginning in 2005, based on the megawatt capacity of the plant or wind farm.

Under current law, generally, the property of a light, heat, and power company and an electric cooperative association, including general structures and substations, is exempt from the imposition of local general property taxes, if the

company or association is subject to license fees. Under this bill, beginning with the property tax assessments as of January 1, 2005, the general structures and substations of such companies and associations are subject to local general property taxes. However, beginning with license fees that are due in May 2006, light, heat, and power companies and electric cooperative associations may claim as a credit against their license fee liability an amount equal to the amount of the property taxes that company or association paid in the calendar year on general structures and substations.

Finally, the bill requires the ^D department of ^R revenue to submit a proposal to the legislature, no later than December 31, 2004, regarding imposing local general property taxes on all property of electric cooperatives and light, heat, and power companies beginning with the property tax assessments as of January 1, 2007.

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:

SECTION 1. 70.112 (4) (a) of the statutes is amended to read:

70.112 (4) (a) All special property assessed under ss. 76.01 to 76.26 and property of any light, heat, and power company taxed under s. 76.28, car line company, and electric cooperative association that is used and useful in the operation of the business of such company or association, except that general structures and substations of a company taxed under s. 76.28 or an association taxed under s. 76.48 are subject to general property taxes. If a general structure for which an exemption is sought under this section is used and useful in part in the operation of any public utility assessed under ss. 76.01 to 76.26 or of the business of ~~any light, heat, and power company taxed under s. 76.28,~~ a car line company, ~~or electric cooperative association~~ and in part for nonoperating purposes of the public utility or company or association, that general structure shall be assessed for taxation under this chapter at the percentage of its full market value that fairly measures and represents the extent of its use for nonoperating purposes. Nothing provided in this paragraph shall

1 exclude any real estate or any property which is separately accounted for under s.
2 196.59 from special assessments for local improvements under s. 66.0705.

3 History: 1971 c. 221, 289; 1981 c. 20; 1983 a. 27, 243, 342, 368; 1999 a. 80; 1999 a. 150 s. 672; 2001 a. 16.

3 **SECTION 2.** 76.28 (3) (e) of the statutes is created to read:

4 76.28 (3) (e) Beginning with calendar year 2006, a light, heat, and power
5 company may claim as a credit against the fees imposed under sub. (2) an amount
6 equal to the amount of property taxes imposed under ch. 70 on general structures and
7 substations that the light, heat, and power company paid in the calendar year. A
8 light, heat, and power company that claims the credit under this paragraph shall
9 subtract the amount of the credit from the license fee payment that is due on or before
10 May 10.

11 **SECTION 3.** 76.28 (9) of the statutes is repealed.

12 **SECTION 4.** 76.48 (1r) of the statutes is amended to read:

13 76.48 (1r) Except as provided in s. 76.29, every electric cooperative shall pay,
14 in lieu of ~~other general property and income or franchise taxes~~, an annual license fee
15 equal to its apportionment factor multiplied by its gross revenues; excluding for the
16 tax period, as defined in s. 76.29 (1) (f), gross revenues that are subject to the license
17 fee under s. 76.29; multiplied by 3.19%. Real estate and personal property not used
18 primarily for the purpose of generating, transmitting or distributing electric energy,
19 general structures, and substations are subject to general property taxes. ~~If a~~
20 ~~general structure is used in part to generate, transmit or distribute electric energy~~
21 ~~and in part for nonoperating purposes, the license fee imposed by this section is in~~
22 ~~place of the percentage of all other general property taxes that fairly measures and~~
23 ~~represents the extent of the use in generating, transmitting or distributing electric~~

1 ~~energy, and the balance is subject to local assessment and taxation, except that the~~
 2 ~~entire general structure is subject to special assessments for local improvements.~~

History: 1971 c. 125, 215; 1973 c. 12; 1975 c. 39, 224; 1977 c. 29, 142, 272, 418; 1979 c. 110 s. 60 (11), (13); 1979 c. 207; 1981 c. 20; 1983 a. 27; 1985 a. 120; 1987 a. 27, 399; 1991 a. 39; 1999 a. 9; 2001 a. 16, 107; 2003 a. 33.

3 SECTION 5. 76.48 (3d) of the statutes is created to read:

4 76.48 (3d) Beginning with calendar year 2006, an electric cooperative may
 5 claim as a credit against the fees imposed under sub. (1r) an amount equal to the
 6 amount of property taxes imposed under ch. 70 on general structures and
 7 substations that the electric cooperative paid in the calendar year. An electric
 8 cooperative that claims the credit under this ~~paragraph~~ ^{subsection} shall subtract the amount
 9 of the credit from the license fee payment that is due on or before May 10.

10 SECTION 6. 79.005 (4) of the statutes, as created by 2003 Wisconsin Act 31, is
 11 repealed.

12 SECTION 7. 79.04 (1) (intro.) of the statutes, as affected by 2003 Wisconsin Act
 13 31, is amended to read:

14 79.04 (1) (intro.) Annually, ~~except for production plants that begin operation~~
 15 ~~after December 31, 2003, or begin operation as a repowered production plant after~~
 16 ~~December 31, 2003,~~ the department of administration, upon certification by the
 17 department of revenue, shall distribute to a municipality having within its
 18 boundaries a hydroelectric production plant, ~~general structure, or substation~~ ^{or} wind
 19 farm, used by a light, heat, or power company assessed under s. 76.28 (2) or 76.29 (2),
 20 except property described in s. 66.0813 unless the hydroelectric production plant or
 21 substation wind farm is owned or operated by a local governmental unit located
 22 outside of the municipality, or by an electric cooperative assessed under ss. 76.07 and

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

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 a. 16; 2001 a. 30 s. 108; 2003 a. 31, 33; s. 13.93 (2) (c).

3 **SECTION 8.** 79.04 (1) (a) of the statutes, as affected by 2003 Wisconsin ^{acts} Act 31
4 and ~~2003 Wisconsin Act 33~~, is amended to read:

5 79.04 (1) (a) An amount from the shared revenue account ~~or, for the~~
6 ~~distribution in 2003, from the appropriation under s. 20.835 (1) (t)~~ determined by
7 multiplying by 3 mills in the case of a town, and 6 mills in the case of a city or village,
8 the first \$125,000,000 of the amount shown in the account attributable to a
9 hydroelectric plant or wind farm, plus leased property, of each public utility except
10 qualified wholesale electric companies, as defined in s. 76.28 (1) (gm), on December
11 31 of the preceding year for "production plant, exclusive of land," "general
12 structures," and "substations," in the case of light, heat and power companies,
13 electric cooperatives or municipal electric companies, for all property within a
14 municipality in accordance with the system of accounts established by the public
15 service commission or rural electrification administration, less depreciation thereon
16 as determined by the department of revenue and less the value of treatment plant
17 and pollution abatement equipment, as defined under s. 70.11 (21) (a), as determined
18 by the department of revenue plus an amount from the shared revenue account ~~or,~~
19 ~~for the distribution in 2003, from the appropriation under s. 20.835 (1) (t)~~ determined
20 by multiplying by 3 mills in the case of a town, and 6 mills in the case of a city or
21 village, ^x of the first \$125,000,000 of the total original cost of a hydroelectric
22 production plant, general structures, and substations or wind farm, less
23 depreciation, land and approved waste treatment facilities of each qualified
24 wholesale electric company, as defined in s. 76.28 (1) (gm), as reported to the

1 department of revenue of all property within the municipality. The total of amounts,
 2 as depreciated, from the accounts of all public utilities for the same hydroelectric
 3 production plant or wind farm is also limited to not more than \$125,000,000. The
 4 amount distributable to a municipality under this subsection and sub. (6) in any year
 5 shall not exceed \$300 times the population of the municipality.

NOTE: NOTE: Par. (a) is shown as affected by two acts of the 2003 legislature and as merged by the revisor under s. 13.93 (2) (c).NOTE:

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 a. 16; 2001 a. 30 s. 108; 2003 a. 31, 33; s. 13.93 (2) (c).

6 SECTION 9. 79.04 (1) (b) 2. of the statutes, as affected by 2003 Wisconsin Act 31,
 7 is amended to read:

8 79.04 (1) (b) 2. When a light, heat or power company no longer uses property
 9 described under par. (a) as a hydroelectric production plant, ~~substation, or general~~
 10 structure ^{or} wind farm in a municipality, the amount established under subd. 1. shall
 11 be reduced by the proportion that the property that is no longer used bears to the total
 12 value of all property described in par. (a) in the municipality. The proportion shall
 13 be determined according to the proportional value of the property when the light,
 14 heat or power company stops using the property.

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 a. 16; 2001 a. 30 s. 108; 2003 a. 31, 33; s. 13.93 (2) (c).

15 SECTION 10. 79.04 (1) (c) 1. of the statutes, as affected by 2003 Wisconsin Act
 16 31, is amended to read:

17 79.04 (1) (c) 1. The payment for any municipality in which a hydroelectric
 18 production plant or wind farm is located, which the public service commission
 19 certifies to the department of revenue will produce a nominal rated capacity of 200
 20 megawatts or more, shall be no less than \$75,000 annually, except that the amount
 21 distributable to a municipality in any year shall not exceed the per capita limit
 22 specified in par. (a).

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 a. 16; 2001 a. 30 s. 108; 2003 a. 31, 33; s. 13.93 (2) (c).

1 **SECTION 11.** 79.04 (1) (c) 2. of the statutes is amended to read:

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

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 a. 16; 2001 a. 30 s. 108; 2003 a. 31, 33; s. 13.93 (2) (c).

12 **SECTION 12.** 79.04 (1) (c) 3. of the statutes, as affected by 2003 Wisconsin Act
13 31, is amended to read:

14 79.04 (1) (c) 3. If a hydroelectric production plant or wind farm with a nominal
15 rated capacity of 200 megawatts or more is decommissioned or becomes nonutility
16 property, the \$75,000 minimum guaranteed payment under subd. 1. shall continue
17 but diminish by \$7,500 annually, except that the minimum guaranteed payment
18 under this subdivision shall cease in the year following the first year in which the
19 property becomes taxable by the taxation district. In this subdivision, “nonutility
20 property” has the meaning set forth in the uniform system of accounts established
21 by the public service commission. This subdivision does not apply after the
22 distributions in 2004.

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 a. 16; 2001 a. 30 s. 108; 2003 a. 31, 33; s. 13.93 (2) (c).

Acts

1 SECTION 13. 79.04 (2) (a) of the statutes, as affected by 2003 Wisconsin Act 31
2 and ~~2003 Wisconsin Act~~ 33, is amended to read:

3 79.04 (2) (a) Annually, ~~except for production plants that begin operation after~~
4 ~~December 31, 2003, or begin operation as a repowered production plant after~~
5 ~~December 31, 2003,~~ the department of administration, upon certification by the
6 department of revenue, shall distribute from the shared revenue account ~~or, for the~~
7 ~~distribution in 2003, from the appropriation under s. 20.835 (1) (t)~~ to any county
8 having within its boundaries a hydroelectric production plant, ~~general structure,~~ or
9 substation or wind farm, used by a light, heat or power company assessed under s.
10 76.28 (2) or 76.29 (2), except property described in s. 66.0813 unless the hydroelectric
11 production plant or substation or wind farm is owned or operated by a local
12 governmental unit that is located outside of the municipality in which the
13 hydroelectric production plant or substation or wind farm is located, or by an electric
14 cooperative assessed under ss. 76.07 and 76.48, respectively, or by a municipal
15 electric company under s. 66.0825 an amount determined by multiplying by 6 mills
16 in the case of property in a town ¹and by 3 mills in the case of property in a city or
17 village ¹the first \$125,000,000 of the amount shown in the account attributable to a
18 hydroelectric production plant or wind farm, plus leased property, of each public
19 utility except qualified wholesale electric companies, as defined in s. 76.28 (1) (gm),
20 on December 31 of the preceding year for "production plant, exclusive of land,"
21 "~~general structures,~~" and "~~substations,~~" in the case of light, heat and power
22 companies, electric cooperatives or municipal electric companies, for all property
23 within the municipality in accordance with the system of accounts established by the
24 public service commission or rural electrification administration, less depreciation
25 thereon as determined by the department of revenue and less the value of treatment

1 plant and pollution abatement equipment, as defined under s. 70.11 (21) (a), as
 2 determined by the department of revenue plus an amount from the shared revenue
 3 account ~~or, for the distribution in 2003, from the appropriation under s. 20.835 (1)~~
 4 ~~(t)~~ determined by multiplying by 6 mills in the case of property in a town, and 3 mills
 5 in the case of property in a city or village, ^{x x x} of the total original cost of a hydroelectric
 6 production plant, ~~general structures, and substations~~ or wind farm, less
 7 depreciation, land and approved waste treatment facilities of each qualified
 8 wholesale electric company, as defined in s. 76.28 (1) (gm), as reported to the
 9 department of revenue of all property within the municipality. The total of amounts,
 10 as depreciated, from the accounts of all public utilities for the same hydroelectric
 11 production plant or wind farm is also limited to not more than \$125,000,000. The
 12 amount distributable to a county under this subsection and sub. (6) in any year shall
 13 not exceed \$100 times the population of the county.

NOTE: NOTE: Par. (a) is shown as affected by two acts of the 2003 legislature and as merged by the revisor under s. 13.93 (2) (c).NOTE:

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 a. 16; 2001 a. 30 s. 108; 2003 a. 31, 33; s. 13.93 (2) (c).

14 SECTION 14. 79.04 (2) (am) 2. of the statutes, as affected by 2003 Wisconsin Act
 15 31, is amended to read:

16 79.04 (2) (am) 2. When a light, heat or power company no longer uses property
 17 described under par. (a) as a hydroelectric production plant, ~~substation, or general~~
 18 structure ^{or} wind farm in a county, the amount established under subd. 1. shall be
 19 reduced by the proportion that the property that is no longer used bears to the total
 20 value of all property described in par. (a) in the county. The proportion shall be
 21 determined according to the proportional value of the property when the light, heat
 22 or power company stops using the property.

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 a. 16; 2001 a. 30 s. 108; 2003 a. 31, 33; s. 13.93 (2) (c).

23 SECTION 15. 79.04 (2) (b) of the statutes is amended to read:

SECTION 15

plain space OK

1 79.04 (2) (b) The payment under par. (a) for any county in which a hydroelectric
 2 production plant or wind farm is located, which the public service commission
 3 certifies to the department of revenue will produce a nominal rated capacity of 200
 4 megawatts or more, shall be not less than \$75,000 annually, except that the amount
 5 distributable to a county in any year shall not exceed the per capita limit specified
 6 in par. (a).

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 a. 16; 2001 a. 30 s. 108; 2003 a. 31, 33; s. 13.93 (2) (c).

7 **SECTION 16.** 79.04 (3m) of the statutes, as created by 2003 Wisconsin Act 31,
 8 is repealed.

, as created by 2003 Wisconsin Act 31,

9 **SECTION 17.** 79.04 (6) (a) of the statutes is amended to read:

10 79.04 (6) (a) Annually, ~~beginning in 2005,~~ for production plants that begin
 11 ~~operation after December 31, 2003, or begin operation as a repowered production~~
 12 ~~plant after December 31, 2003~~ are not hydroelectric production plants or wind farms,
 13 the department of administration, upon certification by the department of revenue,
 14 shall distribute payments from the public utility account, as determined under par.
 15 (b), to each municipality and county in which a production plant is located, if the
 16 production plant has a name-plate capacity of at least one megawatt and is used by
 17 a light, heat, or power company assessed under s. 76.28 (2) or 76.29 (2), except
 18 property described in s. 66.0813, unless the production plant is owned or operated
 19 by a local governmental unit located outside of the municipality; by a qualified
 20 wholesale electric company, as defined in s. 76.28 (1) (gm); by a wholesale merchant
 21 plant, as defined in s. 196.491 (1) (w); by an electric cooperative assessed under ss.
 22 76.07 and 76.48, respectively; or by a municipal electric company under s. 66.0825.

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 a. 16; 2001 a. 30 s. 108; 2003 a. 31, 33; s. 13.93 (2) (c).

23 **SECTION 18. Nonstatutory provisions.**

section of the statutes

1 (1) PROPOSAL TO IMPOSE GENERAL LOCAL PROPERTY TAXES ON UTILITY PROPERTY. No
 2 later than December 31, 2004, the department of revenue shall submit a proposal to
 3 the legislature under ~~§~~ 13.172 (2) regarding imposing local general property taxes
 4 under chapter 70 of the statutes on the property of electric cooperatives and light,
 5 heat, and power companies beginning with the property tax assessments as of
 6 January 1, 2007. The proposal shall include distribution and transmission property
 7 and property included in the production plant account that does not directly generate
 8 electricity.

SECTION 19. Initial applicability.

10 (1) The treatment of sections 70.112 (4) (a), 76.28 (9), and 76.48 (1r) of the
 11 statutes first applies to the property tax assessments as of January 1, 2005.
 12 (2) The treatment of sections 79.005 (4) and 79.04 (1) (intro.), (a), (b) 2., and (c)
 13 1., 2., and 3., (2) (a), (am) 2., and (b), and (6) (a) of the statutes first applies to
 14 distributions made on the 4th Monday ~~of~~ ^{of} July 2005.

(END)

o

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

LRB-3944/P1dn

JK:jj...

King

Representative Jensen:

Please review this draft carefully to ensure that it is consistent with your intent.

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-3944/P1dn
JK:kmg:jf

January 15, 2004

Representative Jensen:

Please review this draft carefully to ensure that it is consistent with your intent.

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

1-15-04

LRB 3944 P1

Brett — ① rolling effective date for property tax

effective date — property tax

gen. structures — 1-1-05

substitutions — 1-1-06

② Transmittance companies

— gen. str. — property tax

but NOT substitutions

③ 16.969(2)(a) — sub. for "cost" → "net book value"



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3944/P1
JK:kmg:jf

P2
RM mtr

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 1-16-04

Today, please

D-N

re gr

1 AN ACT *to repeal* 76.28 (9), 79.005 (4) and 79.04 (3m); *to amend* 70.112 (4) (a),
2 76.48 (1r), 79.04 (1) (intro.), 79.04 (1) (a), 79.04 (1) (b) 2., 79.04 (1)(c) 1., 79.04
3 (1) (c) 2., 79.04 (1) (c) 3., 79.04 (2) (a), 79.04 (2) (am) 2., 79.04 (2) (b) and 79.04
4 (6) (a); and *to create* 76.28 (3) (e) and 76.48 (3d) of the statutes; **relating to:**
5 public utility aid payments, imposing local general property taxes on
6 production plant general structures and substations, and creating a credit
7 against license fees imposed on light, heat, and power companies and electric
8 cooperatives.

Analysis by the Legislative Reference Bureau

Under current law, beginning in 2005, each county and municipality in which a power production plant is located receives a state aid payment based on the net book value of the production plant, for production plants that, generally, began operation before January 1, 2004, or based on the production plant's megawatt capacity, for production plants that began operation after December 31, 2003. Under this bill, beginning in 2005, each county and municipality in which a power production plant is located will receive a state aid payment based on the production plant's megawatt capacity, except that, if the production plant is a hydroelectric plant or a wind farm, the county and municipality will receive a payment based on

In addition, beginning with the property tax assessments ^{ts} as of January 1, 2006, the ~~substations~~ substations of such companies and associations, other than transmission companies, are subject to local general property taxes.

the net book value of the hydroelectric plant or wind farm. In addition, under current law, for a hydroelectric plant or wind farm that is built after December 31, 2003, the county and municipality in which the plant or wind farm is located will receive an additional payment, beginning in 2005, based on the megawatt capacity of the plant or wind farm.

Under current law, generally, the property of a light, heat, and power company and an electric cooperative association, including general structures and substations, is exempt from the imposition of local general property taxes, if the company or association is subject to license fees. Under this bill, beginning with the property tax assessments as of January 1, 2005, the general structures ~~and substations~~ of such companies and associations are subject to local general property taxes. However, beginning with license fees that are due in May 2006, light, heat, and power companies and electric cooperative associations may claim as a credit against their license fee liability an amount equal to the amount of the property taxes that the company or association paid in the calendar year on general structures and substations.

INSERT A

Finally, the bill requires the Department of Revenue to submit a proposal to the legislature, no later than December 31, 2004, regarding imposing local general property taxes on all property of electric cooperatives and light, heat, and power companies beginning with the property tax assessments as of January 1, 2007.

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
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10

~~SECTION 1. 70.112 (4) (a) of the statutes is amended to read:
70.112 (4) (a) All special property assessed under ss. 76.01 to 76.26 and property of any light, heat, and power company taxed under s. 76.28, car line company, and electric cooperative association that is used and useful in the operation of the business of such company or association, except that general structures and substations of a company taxed under s. 76.28 or an association taxed under s. 76.48 are subject to general property taxes. If a general structure for which an exemption is sought under this section is used and useful in part in the operation of any public utility assessed under ss. 76.01 to 76.26 or of the business of any light, heat, and power company taxed under s. 76.28, a car line company, or electric cooperative~~

1 ~~association and in part for nonoperating purposes of the public utility or company or~~
 2 ~~association, that general structure shall be assessed for taxation under this chapter~~
 3 ~~at the percentage of its full market value that fairly measures and represents the~~
 4 ~~extent of its use for nonoperating purposes. Nothing provided in this paragraph shall~~
 5 ~~exclude any real estate or any property which is separately accounted for under s.~~
 6 ~~196.59 from special assessments for local improvements under s. 66.0705.~~

INSERT
3-b

7 **SECTION 2.** 76.28 (3) (e) of the statutes is created to read:

8 76.28 (3) (e) Beginning with calendar year 2006, a light, heat, and power
 9 company may claim as a credit against the fees imposed under sub. (2) an amount
 10 equal to the amount of property taxes imposed under ch. 70 on general structures and
 11 substations that the light, heat, and power company paid in the calendar year. A
 12 light, heat, and power company that claims the credit under this paragraph shall
 13 subtract the amount of the credit from the license fee payment that is due on or before
 14 May 10.

15 **SECTION 3.** 76.28 (9) of the statutes is repealed.

16 **SECTION 4.** 76.48 (1r) of the statutes is amended to read:

17 76.48 (1r) Except as provided in s. 76.29, every electric cooperative shall pay,
 18 in lieu of ~~other general property and income or franchise taxes~~, an annual license fee
 19 equal to its apportionment factor multiplied by its gross revenues; excluding for the
 20 tax period, as defined in s. 76.29 (1) (f), gross revenues that are subject to the license
 21 fee under s. 76.29; multiplied by 3.19%. ~~Real~~ ^{subject to s. 70.112(4)(a) and (am), real} estate and personal property not used
 22 primarily for the purpose of generating, transmitting or distributing electric energy,

23 general structures, and substations are subject to general property taxes. If a
 24 general structure is used in part to generate, transmit or distribute electric energy
 25 and in part for nonoperating purposes, the license fee imposed by this section is in

1 ~~place of the percentage of all other general property taxes that fairly measures and~~
2 ~~represents the extent of the use in generating, transmitting or distributing electric~~
3 ~~energy, and the balance is subject to local assessment and taxation, except that the~~
4 ~~entire general structure is subject to special assessments for local improvements.~~

5 **SECTION 5.** 76.48 (3d) of the statutes is created to read:

6 76.48 (3d) Beginning with calendar year 2006, an electric cooperative may
7 claim as a credit against the fees imposed under sub. (1r) an amount equal to the
8 amount of property taxes imposed under ch. 70 on general structures and
9 substations that the electric cooperative paid in the calendar year. An electric
10 cooperative that claims the credit under this subsection shall subtract the amount
11 of the credit from the license fee payment that is due on or before May 10.

12 **SECTION 6.** 79.005 (4) of the statutes, as created by 2003 Wisconsin Act 31, is
13 repealed.

14 **SECTION 7.** 79.04 (1) (intro.) of the statutes, as affected by 2003 Wisconsin Act
15 31, is amended to read:

16 79.04 (1) (intro.) Annually, ~~except for production plants that begin operation~~
17 ~~after December 31, 2003, or begin operation as a repowered production plant after~~
18 ~~December 31, 2003,~~ the department of administration, upon certification by the
19 department of revenue, shall distribute to a municipality having within its
20 boundaries a hydroelectric production plant, ~~general structure, or substation~~ wind
21 farm, used by a light, heat, or power company assessed under s. 76.28 (2) or 76.29 (2),
22 except property described in s. 66.0813 unless the hydroelectric production plant or
23 substation wind farm is owned or operated by a local governmental unit located
24 outside of the municipality, or by an electric cooperative assessed under ss. 76.07 and

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

3 SECTION 8. 79.04 (1) (a) of the statutes, as affected by 2003 Wisconsin Acts 31
4 and 33, is amended to read:

5 79.04 (1) (a) An amount from the shared revenue account ~~or, for the~~
6 ~~distribution in 2003, from the appropriation under s. 20.835 (1) (t)~~ determined by
7 multiplying by 3 mills in the case of a town, and 6 mills in the case of a city or village,
8 the first \$125,000,000 of the amount shown in the account attributable to a
9 hydroelectric plant or wind farm, plus leased property, of each public utility except
10 qualified wholesale electric companies, as defined in s. 76.28 (1) (gm), on December
11 31 of the preceding year for "production plant, exclusive of land," "general
12 structures," and "substations," in the case of light, heat and power companies,
13 electric cooperatives or municipal electric companies, for all property within a
14 municipality in accordance with the system of accounts established by the public
15 service commission or rural electrification administration, less depreciation thereon
16 as determined by the department of revenue and less the value of treatment plant
17 and pollution abatement equipment, as defined under s. 70.11 (21) (a), as determined
18 by the department of revenue plus an amount from the shared revenue account ~~or,~~
19 ~~for the distribution in 2003, from the appropriation under s. 20.835 (1) (t)~~ determined
20 by multiplying by 3 mills in the case of a town, and 6 mills in the case of a city or
21 village, of the first \$125,000,000 of the total original cost of a hydroelectric
22 production plant, general structures, and substations or wind farm, less
23 depreciation, land and approved waste treatment facilities of each qualified
24 wholesale electric company, as defined in s. 76.28 (1) (gm), as reported to the
25 department of revenue of all property within the municipality. The total of amounts,

1 as depreciated, from the accounts of all public utilities for the same hydroelectric
2 production plant or wind farm is also limited to not more than \$125,000,000. The
3 amount distributable to a municipality under this subsection and sub. (6) in any year
4 shall not exceed \$300 times the population of the municipality.

5 **SECTION 9.** 79.04 (1) (b) 2. of the statutes, as affected by 2003 Wisconsin Act 31,
6 is amended to read:

7 79.04 (1) (b) 2. When a light, heat or power company no longer uses property
8 described under par. (a) as a hydroelectric production plant, ~~substation, or general~~
9 ~~structure~~ or wind farm in a municipality, the amount established under subd. 1. shall
10 be reduced by the proportion that the property that is no longer used bears to the total
11 value of all property described in par. (a) in the municipality. The proportion shall
12 be determined according to the proportional value of the property when the light,
13 heat or power company stops using the property.

14 **SECTION 10.** 79.04 (1) (c) 1. of the statutes, as affected by 2003 Wisconsin Act
15 31, is amended to read:

16 79.04 (1) (c) 1. The payment for any municipality in which a hydroelectric
17 production plant or wind farm is located, which the public service commission
18 certifies to the department of revenue will produce a nominal rated capacity of 200
19 megawatts or more, shall be no less than \$75,000 annually, except that the amount
20 distributable to a municipality in any year shall not exceed the per capita limit
21 specified in par. (a).

22 **SECTION 11.** 79.04 (1) (c) 2. of the statutes is amended to read:

23 79.04 (1) (c) 2. If a hydroelectric production plant or wind farm is located in
24 more than one municipality, the total payment under subd. 1. shall be apportioned
25 according to the amounts shown on the preceding December 31 for the hydroelectric

1 production plant or wind farm in the account described in par. (a) for “production
2 plant exclusive of land” within each municipality for all public utilities except
3 qualified wholesale electric companies, as defined in s. 76.28 (1) (gm), or according
4 to the value as reported to the department of revenue under par. (a) of the
5 hydroelectric production plant or wind farm within each municipality for each
6 qualified wholesale electric company. The payment to each municipality under this
7 subdivision shall be no less than \$15,000 annually.

8 **SECTION 12.** 79.04 (1) (c) 3. of the statutes, as affected by 2003 Wisconsin Act
9 31, is amended to read:

10 79.04 (1) (c) 3. If a hydroelectric production plant or wind farm with a nominal
11 rated capacity of 200 megawatts or more is decommissioned or becomes nonutility
12 property, the \$75,000 minimum guaranteed payment under subd. 1. shall continue
13 but diminish by \$7,500 annually, except that the minimum guaranteed payment
14 under this subdivision shall cease in the year following the first year in which the
15 property becomes taxable by the taxation district. In this subdivision, “nonutility
16 property” has the meaning set forth in the uniform system of accounts established
17 by the public service commission. This subdivision does not apply after the
18 distributions in 2004.

19 **SECTION 13.** 79.04 (2) (a) of the statutes, as affected by 2003 Wisconsin Acts 31
20 and 33, is amended to read:

21 79.04 (2) (a) Annually, ~~except for production plants that begin operation after~~
22 ~~December 31, 2003, or begin operation as a repowered production plant after~~
23 ~~December 31, 2003,~~ the department of administration, upon certification by the
24 department of revenue, shall distribute from the shared revenue account ~~or, for the~~
25 ~~distribution in 2003, from the appropriation under s. 20.835 (1) (t) to any county~~

1 having within its boundaries a hydroelectric production plant, ~~general structure, or~~
2 ~~substation or wind farm~~, used by a light, heat or power company assessed under s.
3 76.28 (2) or 76.29 (2), except property described in s. 66.0813 unless the hydroelectric
4 production plant or ~~substation~~ wind farm is owned or operated by a local
5 governmental unit that is located outside of the municipality in which the
6 hydroelectric production plant or ~~substation~~ wind farm is located, or by an electric
7 cooperative assessed under ss. 76.07 and 76.48, respectively, or by a municipal
8 electric company under s. 66.0825 an amount determined by multiplying by 6 mills
9 in the case of property in a town, and by 3 mills in the case of property in a city or
10 village, the first \$125,000,000 of the amount shown in the account attributable to a
11 hydroelectric production plant or wind farm, plus leased property, of each public
12 utility except qualified wholesale electric companies, as defined in s. 76.28 (1) (gm),
13 on December 31 of the preceding year for "production plant, exclusive of land,"
14 "~~general structures,~~" and "~~substations,~~" in the case of light, heat and power
15 companies, electric cooperatives or municipal electric companies, for all property
16 within the municipality in accordance with the system of accounts established by the
17 public service commission or rural electrification administration, less depreciation
18 thereon as determined by the department of revenue and less the value of treatment
19 plant and pollution abatement equipment, as defined under s. 70.11 (21) (a), as
20 determined by the department of revenue plus an amount from the shared revenue
21 account ~~or, for the distribution in 2003, from the appropriation under s. 20.835 (1)~~
22 ~~(t)~~ determined by multiplying by 6 mills in the case of property in a town, and 3 mills
23 in the case of property in a city or village, of the total original cost of a hydroelectric
24 production plant, ~~general structures, and substations~~ or wind farm, less
25 depreciation, land and approved waste treatment facilities of each qualified

1 wholesale electric company, as defined in s. 76.28,(1) (gm), as reported to the
2 department of revenue of all property within the municipality. The total of amounts,
3 as depreciated, from the accounts of all public utilities for the same hydroelectric
4 production plant or wind farm is also limited to not more than \$125,000,000. The
5 amount distributable to a county under this subsection and sub. (6) in any year shall
6 not exceed \$100 times the population of the county.

7 **SECTION 14.** 79.04 (2) (am) 2. of the statutes, as affected by 2003 Wisconsin Act
8 31, is amended to read:

9 79.04 (2) (am) 2. When a light, heat or power company no longer uses property
10 described under par. (a) as a hydroelectric production plant, ~~substation, or general~~
11 ~~structure~~ or wind farm in a county, the amount established under subd. 1. shall be
12 reduced by the proportion that the property that is no longer used bears to the total
13 value of all property described in par. (a) in the county. The proportion shall be
14 determined according to the proportional value of the property when the light, heat
15 or power company stops using the property.

16 **SECTION 15.** 79.04 (2) (b) of the statutes is amended to read:

17 79.04 (2) (b) The payment under par. (a) for any county in which a hydroelectric
18 production plant or wind farm is located, which the public service commission
19 certifies to the department of revenue will produce a nominal rated capacity of 200
20 megawatts or more, shall be not less than \$75,000 annually, except that the amount
21 distributable to a county in any year shall not exceed the per capita limit specified
22 in par. (a).

23 **SECTION 16.** 79.04 (3m) of the statutes, as created by 2003 Wisconsin Act 31,
24 is repealed.

1 **SECTION 17.** 79.04 (6) (a) of the statutes, as created by 2003 Wisconsin Act 31,
2 is amended to read:

3 79.04 (6) (a) Annually, ~~beginning in 2005~~, for production plants that begin
4 ~~operation after December 31, 2003, or begin operation as a repowered production~~
5 ~~plant after December 31, 2003~~ are not hydroelectric production plants or wind farms,
6 the department of administration, upon certification by the department of revenue,
7 shall distribute payments from the public utility account, as determined under par.
8 (b), to each municipality and county in which a production plant is located, if the
9 production plant has a name-plate capacity of at least one megawatt and is used by
10 a light, heat, or power company assessed under s. 76.28 (2) or 76.29 (2), except
11 property described in s. 66.0813, unless the production plant is owned or operated
12 by a local governmental unit located outside of the municipality; by a qualified
13 wholesale electric company, as defined in s. 76.28 (1) (gm); by a wholesale merchant
14 plant, as defined in s. 196.491 (1) (w); by an electric cooperative assessed under ss.
15 76.07 and 76.48, respectively; or by a municipal electric company under s. 66.0825.

✓
(NEXT)
10-15

16 **SECTION 18. Nonstatutory provisions.**

17 (1) PROPOSAL TO IMPOSE GENERAL LOCAL PROPERTY TAXES ON UTILITY PROPERTY. No
18 later than December 31, 2004, the department of revenue shall submit a proposal to
19 the legislature under section 13.172 (2) of the statutes regarding imposing local
20 general property taxes under chapter 70 of the statutes on the property of electric
21 cooperatives and light, heat, and power companies beginning with the property tax
22 assessments as of January 1, 2007. The proposal shall include distribution and
23 transmission property and property included in the production plant account that
24 does not directly generate electricity.

25 **SECTION 19. Initial applicability.**

1

(1) The treatment of sections ~~70.112 (4) (a)~~, 76.28 (9) and 76.48 (1r) of the statutes first applies to the property tax assessments as of January 1, 2005.

3

(2) The treatment of sections 79.005 (4) and 79.04 (1) (intro.), (a), (b) 2., and (c) 1., 2., and 3., (2) (a), (am) 2., and (b), and (6) (a) of the statutes first applies to distributions made on the 4th Monday of July, 2005.

6

(END)

Insert A ✓

Under current law, a person who is issued a certificate of public convenience and necessity for a high-voltage transmission line must pay the department of administration an annual impact fee equal to 0.3 percent of the cost of the high-voltage transmission line. Under the bill, the annual impact fee is equal to 0.3 percent of the net book value of the high-voltage transmission line.

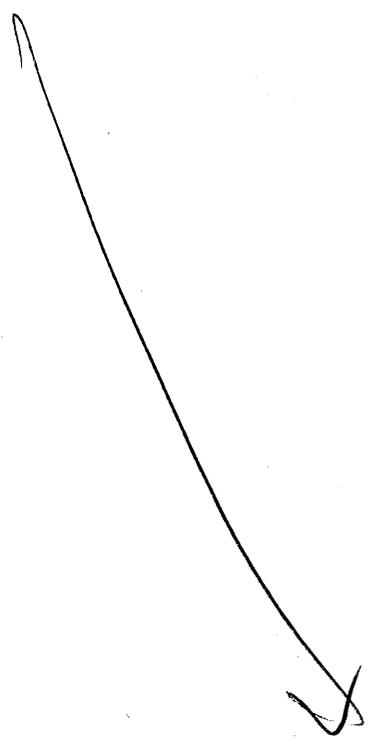
end of insert A

Section #. 16.969 (2) (a) of the statutes is amended to read:

net book value

16.969 (2) (a) An annual impact fee in an amount equal to 0.3% of the ~~cost~~ of the high-voltage transmission line, as determined by the commission under s. 196.491 (3) (gm).

History: 1999 a. 9; 2003 a. 89.



Section #. 70.112 (4) (a) of the statutes is amended to read:

Except as provided in par. (am), all

70.112 (4) (a) ~~All~~ special property assessed under ss. 76.01 to 76.26 and property of any light, heat, and power company taxed under s. 76.28, car line company, and electric cooperative association that is used and useful in the operation of the business of such company or association. ~~If~~ a general structure for which an exemption is sought under this section is used and useful in part in the operation of any public utility assessed under ss. 76.01 to 76.26 or of the business of any light, heat, and power company taxed under s. 76.28, car line company, or electric cooperative association and in part for nonoperating purposes of the public utility or company or association, that general structure shall be assessed for taxation under this chapter at the percentage of its full market value that fairly measures and represents the extent of its use for nonoperating purposes. Nothing provided in this paragraph shall exclude any real estate or any property which is separately accounted for under s. 196.59 from special assessments for local improvements under s. 66.0705.

History: 1971 c. 221, 289; 1981 c. 20; 1983 a. 27, 243, 342, 368; 1999 a. 80; 1999 a. 150 s. 672; 2001 a. 16.

Except as provided in par.
(am) 1., if

Sec. # ~~a;~~ 70.112(4)(am)

70.112(4)^B(am) 1. Beginning with the property tax assessments as of January 1, 2005, the general structure of a light, heat, and power company taxed under s. 76.28 or an electric cooperative association is subject to general property taxes.

2. Beginning with the property tax assessments ⁷⁵ as of January 1, 2006, a substitution of a light, heat, and power company taxed under s. 76.28 or an electric cooperative association is subject to general property taxes, except that this subdivision does not apply to a substitution of a transmission company, as defined in s. 196.485(1)(g).

end of insert
3-6

(INSERT)
10-15

as affected by 2003 Wisconsin Act 89,

Section #. 196.491 (3) (gm) of the statutes is amended to read:

196.491 (3) (gm) The commission may not approve an application filed after October 29, 1999, under this subsection for a certificate of public convenience and necessity for a high-voltage transmission line that is designed for operation at a nominal voltage of 345 kilovolts or more unless the approval includes the condition that the applicant shall pay the fees specified in sub. (3g) (a). If the commission has approved an application under this subsection for a certificate of public convenience and necessity for a high-voltage transmission line that is designed for operation at a nominal voltage of 345 kilovolts or more that was filed after April 1, 1999, and before October 29, 1999, the commission shall require the applicant to pay the fees specified in sub. (3g) (a). For any application subject to this paragraph, the commission shall determine the ~~cost~~ ^{net book value} of the high-voltage transmission line, identify the counties, towns, villages and cities through which the high-voltage transmission line is routed and allocate the amount of investment associated with the high-voltage transmission line to each such county, town, village and city.

History: 1975 c. 68, 199; 1979 c. 221, 361; 1983 a. 53 s. 114; 1983 a. 192, 401; 1985 a. 182 s. 57; 1989 a. 31; 1993 a. 184; 1995 a. 27 ss. 9116 (5), 9126 (19); 1995 a. 227, 409; 1997 a. 27, 35, 204; 1999 a. 9; 1999 a. 150 s. 672; 2001 a. 16; 2003 a. 33, 89.

end of insert 10-15

3944/P2
vk: King

Representative Jensen:

Please review this draft carefully to ensure that it
is consistent with your intent.

vk

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

LRB-3944/P2dn
JK:kmg:pg

January 16, 2004

Representative Jensen:

Please review this draft carefully to ensure that it is consistent with your intent.

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

Kreye, Joseph

From: Healy, Brett
Sent: Tuesday, January 20, 2004 9:09 AM
To: Kreye, Joseph
Subject: RE: Draft review: LRB 03-3944/P2 Topic: Public utility aid payments and

please do. thanks.

Brett Healy

Rep. Scott Jensen

Energy & Utilities Committee

123 West, State Capitol

608-264-6970

1-888-534-0098 toll-free

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

From: Kreye, Joseph
Sent: Tuesday, January 20, 2004 9:08 AM
To: Healy, Brett
Subject: RE: Draft review: LRB 03-3944/P2 Topic: Public utility aid payments and taxation

Please let me know when you want a "/1" version and I'll produce one in short order.

Joseph T. Kreye

Legislative Attorney

Legislative Reference Bureau

(608) 266-2263

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

From: Rep.Jensen
Sent: Monday, January 19, 2004 11:47 AM
To: Northrop, Lori
Cc: Kreye, Joseph
Subject: RE: Draft review: LRB 03-3944/P2 Topic: Public utility aid payments and taxation
Importance: High

This looks good. Thanks.

Brett Healy

Rep. Scott Jensen

01/20/2004

Energy & Utilities Committee

123 West, State Capitol

608-264-6970

1-888-534-0098 toll-free

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

From: Northrop, Lori

Sent: Friday, January 16, 2004 4:06 PM

To: Rep.Jensen

Subject: Draft review: LRB 03-3944/P2 Topic: Public utility aid payments and taxation

Following is the PDF version of draft LRB 03-3944/P2 and drafter's note.



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3944/P2

JK:kmg:jf

RMR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

m 1-20-04

Today, please

Gen. Cat.

1 AN ACT *to repeal* 76.28 (9), 79.005 (4) and 79.04 (3m); *to amend* 16.969 (2) (a),
2 70.112 (4) (a), 76.48 (1r), 79.04 (1) (intro.), 79.04 (1) (a), 79.04 (1) (b) 2., 79.04
3 (1) (c) 1., 79.04 (1) (c) 2., 79.04 (1) (c) 3., 79.04 (2) (a), 79.04 (2) (am) 2., 79.04 (2)
4 (b), 79.04 (6) (a) and 196.491 (3) (gm); and *to create* 70.112 (4) (am), 76.28 (3)
5 (e) and 76.48 (3d) of the statutes; **relating to:** public utility aid payments,
6 imposing local general property taxes on production plant general structures
7 and substations, and creating a credit against license fees imposed on light,
8 heat, and power companies and electric cooperatives.

Analysis by the Legislative Reference Bureau

Under current law, beginning in 2005, each county and municipality in which a power production plant is located receives a state aid payment based on the net book value of the production plant, for production plants that, generally, began operation before January 1, 2004, or based on the production plant's megawatt capacity, for production plants that began operation after December 31, 2003. Under this bill, beginning in 2005, each county and municipality in which a power production plant is located will receive a state aid payment based on the production plant's megawatt capacity, except that, if the production plant is a hydroelectric plant or a wind farm, the county and municipality will receive a payment based on

the net book value of the hydroelectric plant or wind farm. In addition, under current law, for a hydroelectric plant or wind farm that is built after December 31, 2003, the county and municipality in which the plant or wind farm is located will receive an additional payment, beginning in 2005, based on the megawatt capacity of the plant or wind farm.

Under current law, generally, the property of a light, heat, and power company and an electric cooperative association, including general structures and substations, is exempt from the imposition of local general property taxes, if the company or association is subject to license fees. Under this bill, beginning with the property tax assessments as of January 1, 2005, the general structures of such companies and associations are subject to local general property taxes. In addition, beginning with the property tax assessments as of January 1, 2006, the substations of such companies and associations, other than transmission companies, are subject to local general property taxes. However, beginning with license fees that are due in May 2006, light, heat, and power companies and electric cooperative associations may claim as a credit against their license fee liability an amount equal to the amount of the property taxes that the company or association paid in the calendar year on general structures and substations.

Under current law, a person who is issued a certificate of public convenience and necessity for a high-voltage transmission line must pay the Department of Administration an annual impact fee equal to 0.3 percent of the cost of the high-voltage transmission line. Under the bill, the annual impact fee is equal to 0.3 percent of the net book value of the high-voltage transmission line.

Finally, the bill requires the Department of Revenue to submit a proposal to the legislature, no later than December 31, 2004, regarding imposing local general property taxes on all property of electric cooperatives and light, heat, and power companies beginning with the property tax assessments as of January 1, 2007.

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

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

1 **SECTION 1.** 16.969 (2) (a) of the statutes is amended to read:

2 16.969 (2) (a) An annual impact fee in an amount equal to 0.3% of the cost net
3 book value of the high-voltage transmission line, as determined by the commission
4 under s. 196.491 (3) (gm).

5 **SECTION 2.** 70.112 (4) (a) of the statutes is amended to read:

1 70.112 (4) (a) All Except as provided in par. (am), all special property assessed
2 under ss. 76.01 to 76.26 and property of any light, heat, and power company taxed
3 under s. 76.28, car line company, and electric cooperative association that is used and
4 useful in the operation of the business of such company or association. If Except as
5 provided in par. (am) 1., if a general structure for which an exemption is sought under
6 this section is used and useful in part in the operation of any public utility assessed
7 under ss. 76.01 to 76.26 or of the business of any light, heat, and power company
8 taxed under s. 76.28, car line company, or electric cooperative association and in part
9 for nonoperating purposes of the public utility or company or association, that
10 general structure shall be assessed for taxation under this chapter at the percentage
11 of its full market value that fairly measures and represents the extent of its use for
12 nonoperating purposes. Nothing provided in this paragraph shall exclude any real
13 estate or any property which is separately accounted for under s. 196.59 from special
14 assessments for local improvements under s. 66.0705.

15 **SECTION 3.** 70.112 (4) (am) of the statutes is created to read:

16 70.112 (4) (am) 1. Beginning with the property tax assessments as of January
17 1, 2005, the general structure of a light, heat, and power company taxed under s.
18 76.28 or an electric cooperative association is subject to general property taxes.

19 2. Beginning with the property tax assessments as of January 1, 2006, a
20 substation of a light, heat, and power company taxed under s. 76.28 or an electric
21 cooperative association is subject to general property taxes, except that this
22 subdivision does not apply to a substation of a transmission company, as defined in
23 s. 196.485 (1) (ge).

24 **SECTION 4.** 76.28 (3) (e) of the statutes is created to read:

1 76.28 (3) (e) Beginning with calendar year 2006, a light, heat, and power
2 company may claim as a credit against the fees imposed under sub. (2) an amount
3 equal to the amount of property taxes imposed under ch. 70 on general structures and
4 substations that the light, heat, and power company paid in the calendar year. A
5 light, heat, and power company that claims the credit under this paragraph shall
6 subtract the amount of the credit from the license fee payment that is due on or before
7 May 10.

8 **SECTION 5.** 76.28 (9) of the statutes is repealed.

9 **SECTION 6.** 76.48 (1r) of the statutes is amended to read:

10 76.48 (1r) Except as provided in s. 76.29, every electric cooperative shall pay,
11 in lieu of ~~other general property and income or franchise taxes~~, an annual license fee
12 equal to its apportionment factor multiplied by its gross revenues; excluding for the
13 tax period, as defined in s. 76.29 (1) (f), gross revenues that are subject to the license
14 fee under s. 76.29; multiplied by 3.19%. ~~Real~~ Subject to s. 70.112 (4) (a) and (am), real
15 estate and personal property not used primarily for the purpose of generating,
16 transmitting or distributing electric energy are subject to general property taxes. ~~If~~
17 ~~a general structure is used in part to generate, transmit or distribute electric energy~~
18 ~~and in part for nonoperating purposes, the license fee imposed by this section is in~~
19 ~~place of the percentage of all other general property taxes that fairly measures and~~
20 ~~represents the extent of the use in generating, transmitting or distributing electric~~
21 ~~energy, and the balance is subject to local assessment and taxation, except that the~~
22 ~~entire general structure is subject to special assessments for local improvements.~~

23 **SECTION 7.** 76.48 (3d) of the statutes is created to read:

24 76.48 (3d) Beginning with calendar year 2006, an electric cooperative may
25 claim as a credit against the fees imposed under sub. (1r) an amount equal to the

1 amount of property taxes imposed under ch. 70 on general structures and
2 substations that the electric cooperative paid in the calendar year. An electric
3 cooperative that claims the credit under this subsection shall subtract the amount
4 of the credit from the license fee payment that is due on or before May 10.

5 **SECTION 8.** 79.005 (4) of the statutes, as created by 2003 Wisconsin Act 31, is
6 repealed.

7 **SECTION 9.** 79.04 (1) (intro.) of the statutes, as affected by 2003 Wisconsin Act
8 31, is amended to read:

9 79.04 (1) (intro.) Annually, ~~except for production plants that begin operation~~
10 ~~after December 31, 2003, or begin operation as a repowered production plant after~~
11 ~~December 31, 2003,~~ the department of administration, upon certification by the
12 department of revenue, shall distribute to a municipality having within its
13 boundaries a hydroelectric production plant, ~~general structure, or substation~~ or wind
14 farm, used by a light, heat, or power company assessed under s. 76.28 (2) or 76.29 (2),
15 except property described in s. 66.0813 unless the hydroelectric production plant or
16 ~~substation~~ wind farm is owned or operated by a local governmental unit located
17 outside of the municipality, or by an electric cooperative assessed under ss. 76.07 and
18 76.48, respectively, or by a municipal electric company under s. 66.0825 the amount
19 determined as follows:

20 **SECTION 10.** 79.04 (1) (a) of the statutes, as affected by 2003 Wisconsin Acts 31
21 and 33, is amended to read:

22 79.04 (1) (a) An amount from the shared revenue account ~~or, for the~~
23 ~~distribution in 2003, from the appropriation under s. 20.835 (1) (t)~~ determined by
24 multiplying by 3 mills in the case of a town, and 6 mills in the case of a city or village,
25 the first \$125,000,000 of the amount shown in the account attributable to a

1 hydroelectric plant or wind farm, plus leased property, of each public utility except
2 qualified wholesale electric companies, as defined in s. 76.28 (1) (gm), on December
3 31 of the preceding year for “production plant, exclusive of land,” “general
4 structures,” and “substations,” in the case of light, heat and power companies,
5 electric cooperatives or municipal electric companies, for all property within a
6 municipality in accordance with the system of accounts established by the public
7 service commission or rural electrification administration, less depreciation thereon
8 as determined by the department of revenue and less the value of treatment plant
9 and pollution abatement equipment, as defined under s. 70.11 (21) (a), as determined
10 by the department of revenue plus an amount from the shared revenue account ~~or,~~
11 ~~for the distribution in 2003, from the appropriation under s. 20.835 (1) (t) determined~~
12 ~~by multiplying by 3 mills in the case of a town, and 6 mills in the case of a city or~~
13 ~~village, of the first \$125,000,000 of the total original cost of a hydroelectric~~
14 ~~production plant, general structures, and substations~~ or wind farm, less
15 depreciation, land and approved waste treatment facilities of each qualified
16 wholesale electric company, as defined in s. 76.28 (1) (gm), as reported to the
17 department of revenue of all property within the municipality. The total of amounts,
18 as depreciated, from the accounts of all public utilities for the same hydroelectric
19 production plant or wind farm is also limited to not more than \$125,000,000. The
20 amount distributable to a municipality under this subsection and sub. (6) in any year
21 shall not exceed \$300 times the population of the municipality.

22 **SECTION 11.** 79.04 (1) (b) 2. of the statutes, as affected by 2003 Wisconsin Act
23 31, is amended to read:

24 79.04 (1) (b) 2. When a light, heat or power company no longer uses property
25 described under par. (a) as a hydroelectric production plant, ~~substation, or general~~

1 structure or wind farm in a municipality, the amount established under subd. 1. shall
2 be reduced by the proportion that the property that is no longer used bears to the total
3 value of all property described in par. (a) in the municipality. The proportion shall
4 be determined according to the proportional value of the property when the light,
5 heat or power company stops using the property.

6 **SECTION 12.** 79.04 (1) (c) 1. of the statutes, as affected by 2003 Wisconsin Act
7 31, is amended to read:

8 79.04 (1) (c) 1. The payment for any municipality in which a hydroelectric
9 production plant or wind farm is located, which the public service commission
10 certifies to the department of revenue will produce a nominal rated capacity of 200
11 megawatts or more, shall be no less than \$75,000 annually, except that the amount
12 distributable to a municipality in any year shall not exceed the per capita limit
13 specified in par. (a).

14 **SECTION 13.** 79.04 (1) (c) 2. of the statutes is amended to read:

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

1 **SECTION 14.** 79.04 (1) (c) 3. of the statutes, as affected by 2003 Wisconsin Act
2 31, is amended to read:

3 79.04 (1) (c) 3. If a hydroelectric production plant or wind farm with a nominal
4 rated capacity of 200 megawatts or more is decommissioned or becomes nonutility
5 property, the \$75,000 minimum guaranteed payment under subd. 1. shall continue
6 but diminish by \$7,500 annually, except that the minimum guaranteed payment
7 under this subdivision shall cease in the year following the first year in which the
8 property becomes taxable by the taxation district. In this subdivision, "nonutility
9 property" has the meaning set forth in the uniform system of accounts established
10 by the public service commission. This subdivision does not apply after the
11 distributions in 2004.

12 **SECTION 15.** 79.04 (2) (a) of the statutes, as affected by 2003 Wisconsin Acts 31
13 and 33, is amended to read:

14 79.04 (2) (a) Annually, ~~except for production plants that begin operation after~~
15 ~~December 31, 2003, or begin operation as a repowered production plant after~~
16 ~~December 31, 2003,~~ the department of administration, upon certification by the
17 department of revenue, shall distribute from the shared revenue account ~~or, for the~~
18 ~~distribution in 2003, from the appropriation under s. 20.835 (1) (t) to any county~~
19 having within its boundaries a hydroelectric production plant, ~~general structure, or~~
20 ~~substation~~ or wind farm, used by a light, heat or power company assessed under s.
21 76.28 (2) or 76.29 (2), except property described in s. 66.0813 unless the hydroelectric
22 production plant or ~~substation~~ wind farm is owned or operated by a local
23 governmental unit that is located outside of the municipality in which the
24 hydroelectric production plant or ~~substation~~ wind farm is located, or by an electric
25 cooperative assessed under ss. 76.07 and 76.48, respectively, or by a municipal

1 electric company under s. 66.0825 an amount determined by multiplying by 6 mills
2 in the case of property in a town, and by 3 mills in the case of property in a city or
3 village, the first \$125,000,000 of the amount shown in the account attributable to a
4 hydroelectric production plant or wind farm, plus leased property, of each public
5 utility except qualified wholesale electric companies, as defined in s. 76.28 (1) (gm),
6 on December 31 of the preceding year for "production plant, exclusive of land,"
7 ~~"general structures," and "substations,"~~ in the case of light, heat and power
8 companies, electric cooperatives or municipal electric companies, for all property
9 within the municipality in accordance with the system of accounts established by the
10 public service commission or rural electrification administration, less depreciation
11 thereon as determined by the department of revenue and less the value of treatment
12 plant and pollution abatement equipment, as defined under s. 70.11 (21) (a), as
13 determined by the department of revenue plus an amount from the shared revenue
14 account ~~or, for the distribution in 2003, from the appropriation under s. 20.835 (1)~~
15 ~~(t)~~ determined by multiplying by 6 mills in the case of property in a town, and 3 mills
16 in the case of property in a city or village, of the total original cost of a hydroelectric
17 production plant, general structures, and substations or wind farm, less
18 depreciation, land and approved waste treatment facilities of each qualified
19 wholesale electric company, as defined in s. 76.28 (1) (gm), as reported to the
20 department of revenue of all property within the municipality. The total of amounts,
21 as depreciated, from the accounts of all public utilities for the same hydroelectric
22 production plant or wind farm is also limited to not more than \$125,000,000. The
23 amount distributable to a county under this subsection and sub. (6) in any year shall
24 not exceed \$100 times the population of the county.

1 **SECTION 16.** 79.04 (2) (am) 2. of the statutes, as affected by 2003 Wisconsin Act
2 31, is amended to read:

3 79.04 (2) (am) 2. When a light, heat or power company no longer uses property
4 described under par. (a) as a hydroelectric production plant, substation, or general
5 structure or wind farm in a county, the amount established under subd. 1. shall be
6 reduced by the proportion that the property that is no longer used bears to the total
7 value of all property described in par. (a) in the county. The proportion shall be
8 determined according to the proportional value of the property when the light, heat
9 or power company stops using the property.

10 **SECTION 17.** 79.04 (2) (b) of the statutes is amended to read:

11 79.04 (2) (b) The payment under par. (a) for any county in which a hydroelectric
12 production plant or wind farm is located, which the public service commission
13 certifies to the department of revenue will produce a nominal rated capacity of 200
14 megawatts or more, shall be not less than \$75,000 annually, except that the amount
15 distributable to a county in any year shall not exceed the per capita limit specified
16 in par. (a).

17 **SECTION 18.** 79.04 (3m) of the statutes, as created by 2003 Wisconsin Act 31,
18 is repealed.

19 **SECTION 19.** 79.04 (6) (a) of the statutes, as created by 2003 Wisconsin Act 31,
20 is amended to read:

21 79.04 (6) (a) Annually, ~~beginning in 2005~~, for production plants that ~~begin~~
22 ~~operation after December 31, 2003, or begin operation as a repowered production~~
23 ~~plant after December 31, 2003~~ are not hydroelectric production plants or wind farms,
24 the department of administration, upon certification by the department of revenue,
25 shall distribute payments from the public utility account, as determined under par.

1 (b), to each municipality and county in which a production plant is located, if the
2 production plant has a name-plate capacity of at least one megawatt and is used by
3 a light, heat, or power company assessed under s. 76.28 (2) or 76.29 (2), except
4 property described in s. 66.0813, unless the production plant is owned or operated
5 by a local governmental unit located outside of the municipality; by a qualified
6 wholesale electric company, as defined in s. 76.28 (1) (gm); by a wholesale merchant
7 plant, as defined in s. 196.491 (1) (w); by an electric cooperative assessed under ss.
8 76.07 and 76.48, respectively; or by a municipal electric company under s. 66.0825.

9 **SECTION 20.** 196.491 (3) (gm) of the statutes, as affected by 2003 Wisconsin Act
10 89, is amended to read:

11 196.491 (3) (gm) The commission may not approve an application filed after
12 October 29, 1999, under this subsection for a certificate of public convenience and
13 necessity for a high-voltage transmission line that is designed for operation at a
14 nominal voltage of 345 kilovolts or more unless the approval includes the condition
15 that the applicant shall pay the fees specified in sub. (3g) (a). If the commission has
16 approved an application under this subsection for a certificate of public convenience
17 and necessity for a high-voltage transmission line that is designed for operation at
18 a nominal voltage of 345 kilovolts or more that was filed after April 1, 1999, and
19 before October 29, 1999, the commission shall require the applicant to pay the fees
20 specified in sub. (3g) (a). For any application subject to this paragraph, the
21 commission shall determine the ~~cost~~ net book value of the high-voltage transmission
22 line, identify the counties, towns, villages and cities through which the high-voltage
23 transmission line is routed and allocate the amount of investment associated with
24 the high-voltage transmission line to each such county, town, village and city.

25 **SECTION 21. Nonstatutory provisions.**

Basford, Sarah

From: Healy, Brett
Sent: Tuesday, January 20, 2004 3:02 PM
To: LRB.Legal
Subject: Draft review: LRB 03-3944/1 Topic: Public utility aid payments and taxation

It has been requested by <Healy, Brett> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-3944/1 Topic: Public utility aid payments and taxation



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

1 EAST MAIN, SUITE 200
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
REFERENCE SECTION: (608) 266-0341
FAX: (608) 264-6948

STEPHEN R. MILLER
CHIEF

LRB

February 9, 2004

MEMORANDUM

To: Representative Jensen

From: Joseph T. Kreye, Legislative Attorney, (608) 266-2263

Subject: Technical Memorandum to **AB-774** (LRB 03-3944/1)

We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

MEMORANDUM

February 2, 2004

TO: Joseph Kreye
Legislative Reference Bureau

FROM: Dennis Collier
Department of Revenue

SUBJECT: Technical Memorandum on 2003 AB 774 Regarding Public Utility Aid Payments and Taxation

We have the following concerns about the bill.

- (1) The bill permits utilities to credit property payments against their state gross revenues license fee. There could be situations in which the credit would be greater than the gross license fee. Since there is no provision for refunds, the excess would currently be carried forward as a credit against future gross license fees. A refund provision may be needed for those companies whose property tax levy would consistently be in excess of their gross revenues license fee.
- (2) Section 3 contains a cross reference to companies taxed under s. 76.28. There are several companies which sell electricity only at wholesale, and whose gross license fee is calculated under s. 76.29. Is a cross reference to s. 76.29 needed in this section to ensure that these companies are covered by the bill?

If you have questions regarding this technical memorandum, please contact Daniel Huegel at 266-5705 or e-mail at dhuegel@dor.state.wi.us.