

2003 SENATE BILL 180

May 23, 2003 – Introduced by Senators BROWN, COWLES, PANZER, M. MEYER and PLALE, cosponsored by Representatives GOTTLIEB, JENSEN, GIELOW and GRONEMUS. Referred to Committee on Energy and Utilities.

1 **AN ACT** *to repeal* 79.01 (1) (c) 3.; *to amend* 20.835 (1) (d), 79.04 (1) (intro.), 79.04
2 (1) (a), 79.04 (1) (c) 1., 79.04 (2) (a) and 79.04 (4); and *to create* 20.835 (1) (dm),
3 79.005 (4), 79.01 (2m), 79.04 (3m), 79.04 (5), 79.04 (6), 79.04 (7) and 196.20 (7)
4 of the statutes; **relating to:** payments to local governments for public utilities
5 and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, generally, the property of a public utility is subject to a state tax rather than local property taxes. Instead of collecting property taxes on public utility property, municipalities and counties receive payments from the shared revenue account based on the value of public utility property located in the municipalities and counties. The amount of a municipality's payment is equal to the value of public utility property located in the municipality, not exceeding \$125,000,000 for each utility, multiplied by either three mills, for a town, or six mills, for a city or village. However, the payment may not exceed an amount that is equal to \$300 multiplied by the municipality's population. The amount of a county's payment is equal to the value of public utility property located in each municipality within the county, not exceeding \$125,000,000 for each utility, multiplied by either three mills, for a city or village located within the county, or six mills, for a town located within the county. However, the amount of the county's payment may not exceed an amount that is equal to \$100 multiplied by the county's population.

Under this bill, for public utilities that begin operation before January 1, 2004, municipalities and counties in which such utilities are located will continue to

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receive payments from the shared revenue account as described above. Under the bill, beginning in 2005, the payments to municipalities and counties related to public utility production plants that begin operation after December 31, 2003, are paid from the public utility distribution account, which is created by the bill, instead of from the shared revenue account, and the amount of such payments is based on the megawatt capacity of all production plants located in the municipality and county, rather than on the value of the public utility property multiplied by the municipality's or county's mill rate. If a production plant is located in a city or village, the city or village in which the plant is located receives two-thirds of the amount of the payment determined by megawatt capacity, and the county in which the plant is located receives one-third of the amount of the payment determined by megawatt capacity. If a production plant is located in a town, the town in which the plant is located receives one-third of the amount of the payment determined by megawatt capacity, and the county in which the plant is located receives two-thirds of the amount of the payment determined by megawatt capacity. The total payment is equal to the production plant's megawatt capacity multiplied by \$2,000.

Under the bill, beginning in 2005, for production plants that begin operation after December, 31, 2003, each municipality and county in which a production plant is located will receive additional payments based on the megawatt capacity of a production plant located in the municipality or county, if the production plant meets any of the following criteria: 1) it is not a nuclear-powered production plant and it is built on the site of, or adjacent to, an existing or decommissioned production plant, on the site of, or adjacent to, brownfields, or on a site purchased by a public utility before January 1, 1980, and identified in an advance plan as a proposed production plant site; 2) it is a baseload electric generating facility, as determined by the Public Service Commission; or 3) it is a production plant that derives energy from a renewable resource. The amount of the payment under this first criterion equals the production plant's megawatt capacity multiplied by \$600, and the amount of the payment under the second and third criteria is equal to the production plant's megawatt capacity multiplied by \$1,000.

Under current law, if public utility property is decommissioned and thereby subject to local property taxes, the municipalities and counties in which the property is located no longer receive shared revenue payments based on the value of that property. Under the bill, shared revenue payments related to decommissioned utility property are phased out over five years.

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:

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1 20.835 (1) (d) *Shared revenue account.* A sum sufficient to meet the
2 requirements of the shared revenue account established under s. 79.01 (2) to provide
3 for the distributions from the shared revenue account to counties, towns, villages and
4 cities under ss. 79.03, 79.04 (1) to (4), and 79.06.

5 **SECTION 2.** 20.835 (1) (dm) of the statutes is created to read:

6 20.835 (1) (dm) *Public utility distribution account.* Beginning in 2005, a sum
7 sufficient to make the payments under s. 79.04 (5), (6), and (7).

8 **SECTION 3.** 79.005 (4) of the statutes is created to read:

9 79.005 (4) “Repowering” means any of the following:

10 (a) Replacing the boiler on an existing fossil fuel steam unit with a combustion
11 turbine and heat recovery steam generator and reusing the steam turbine and heat
12 rejection system.

13 (b) Adding a heat recovery steam generator to a simple cycle combustion
14 turbine.

15 (c) Demolishing or abandoning an existing power generation unit and adding
16 a new combustion turbine, heat recovery steam generator, and steam turbine.

17 **SECTION 4.** 79.01 (1) (c) 3. of the statutes is repealed.

18 **SECTION 5.** 79.01 (2m) of the statutes is created to read:

19 79.01 (2m) There is established an account in the general fund entitled the
20 “Public Utility Distribution Account,” referred to in this chapter as the “public utility
21 account.” There shall be appropriated to the public utility account the sums specified
22 in s. 79.04 (5), (6), and (7).

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

24 79.04 (1) (intro.) Annually, for production plants that begin operation before
25 January 1, 2004, other than plants that undergo repowering after December 31,

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1 2003, the department of administration, upon certification by the department of
2 revenue, shall distribute to a municipality having within its boundaries a production
3 plant or a general structure, including production plants and general structures
4 under construction, used by a light, heat, or power company assessed under s. 76.28
5 (2) or 76.29 (2), except property described in s. 66.0813 unless the production plant
6 is owned or operated by a local governmental unit located outside of the municipality,
7 or by an electric cooperative assessed under ss. 76.07 and 76.48, respectively, or by
8 a municipal electric company under s. 66.0825 the amount determined as follows:

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

10 79.04 (1) (a) An amount from the shared revenue account determined by
11 multiplying by 3 mills in the case of a town, and 6 mills in the case of a city or village,
12 the first \$125,000,000 of the amount shown in the account, plus leased property, of
13 each public utility except qualified wholesale electric companies, as defined in s.
14 76.28 (1) (gm), on December 31 of the preceding year for either “production plant,
15 exclusive of land” and “general structures”, or “work in progress” for production
16 plants and general structures under construction, in the case of light, heat and power
17 companies, electric cooperatives or municipal electric companies, for all property
18 within a municipality in accordance with the system of accounts established by the
19 public service commission or rural electrification administration, less depreciation
20 thereon as determined by the department of revenue and less the value of treatment
21 plant and pollution abatement equipment, as defined under s. 70.11 (21) (a), as
22 determined by the department of revenue plus an amount from the shared revenue
23 account determined by multiplying by 3 mills in the case of a town, and 6 mills in the
24 case of a city or village, of the first \$125,000,000 of the total original cost of production
25 plant, general structures and work-in-progress less depreciation, land and

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1 approved waste treatment facilities of each qualified wholesale electric company, as
2 defined in s. 76.28 (1) (gm), as reported to the department of revenue of all property
3 within the municipality. The total of amounts, as depreciated, from the accounts of
4 all public utilities for the same production plant is also limited to not more than
5 \$125,000,000. The amount distributable to a municipality under this subsection and
6 sub. (6) in any year shall not exceed \$300 times the population of the municipality.

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

8 79.04 (1) (c) 1. The payment for any municipality in which a production plant
9 is located, which the public service commission certifies to the department of revenue
10 will produce a nominal rated capacity of 200 megawatts or more, shall be no less than
11 \$75,000 annually, except that the amount distributable to a municipality in any year
12 shall not exceed the per capita limit specified in par. (a). ~~Payments under this~~
13 ~~paragraph may be extended to decommissioned production plants as provided in~~
14 ~~subd. 3.~~

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

16 79.04 (2) (a) Annually, for production plants that begin operation before
17 January 1, 2004, other than plants that undergo repowering after December 31,
18 2003, the department of administration, upon certification by the department of
19 revenue, shall distribute from the shared revenue account to any county having
20 within its boundaries a production plant or a general structure, including production
21 plants and general structures under construction, used by a light, heat or power
22 company assessed under s. 76.28 (2) or 76.29 (2), except property described in s.
23 66.0813 unless the production plant is owned or operated by a local governmental
24 unit that is located outside of the municipality in which the production plant is
25 located, or by an electric cooperative assessed under ss. 76.07 and 76.48, respectively,

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

24 **SECTION 10.** 79.04 (3m) of the statutes is created to read:

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1 79.04 **(3m)** For purposes of determining the amount of the payments under
2 subs. (1) and (2), the payments for a municipality and county in which an ash disposal
3 facility is operating prior to the effective date of this subsection [revisor inserts
4 date], shall be calculated to include an amount that is equal to the net book value of
5 the ash disposal facility multiplied by 2.

6 **SECTION 11.** 79.04 (4) of the statutes is amended to read:

7 79.04 **(4)** (a) Annually, in addition to the ~~amount~~ amounts distributed under
8 ~~sub. (1)~~ subs. (1), (5), (6), and (7), the department of administration shall distribute
9 \$50,000 to a municipality if spent nuclear fuel is stored within the municipality on
10 December 31 of the preceding year. If a spent nuclear fuel storage facility is located
11 within one mile of a municipality, that municipality shall receive \$10,000 annually
12 and the municipality where that storage facility is located shall receive \$40,000
13 annually.

14 (b) Annually, in addition to the ~~amount~~ amounts distributed under ~~sub. (2)~~
15 subs. (2), (5), (6), and (7), the department of administration shall distribute \$50,000
16 to a county if spent nuclear fuel is stored within the county on December 31 of the
17 preceding year. If a spent nuclear fuel storage facility is located at a production plant
18 located in more than one county, the payment shall be apportioned according to the
19 formula under sub. (1) (c) 2., except that the formula, as it applies to municipalities
20 in that subdivision, applies to counties in this paragraph. The payment under this
21 paragraph may not be less than \$10,000 annually.

22 **SECTION 12.** 79.04 (5) of the statutes is created to read:

23 79.04 **(5)** (a) Beginning with the distributions in 2005, if property that was
24 exempt from the property tax under s. 70.112 (4) and that was used to generate power
25 by a light, heat, or power company, except property under s. 66.0813, or by an electric

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1 cooperative, is decommissioned, the municipality shall be paid, from the public
2 utility account, an amount calculated by subtracting an amount equal to the
3 property taxes paid for that property during the current year to the municipality for
4 its general operations from the following percentages of the payment that the
5 municipality received under this section during the last year that the property was
6 exempt from the property tax:

- 7 1. In the first year that the property is taxable, 100%.
- 8 2. In the 2nd year that the property is taxable, 80%.
- 9 3. In the 3rd year that the property is taxable, 60%.
- 10 4. In the 4th year that the property is taxable, 40%.
- 11 5. In the 5th year that the property is taxable, 20%.

12 (b) Beginning with the distributions in 2005, if property that was exempt from
13 the property tax under s. 70.112 (4) and that was used to generate power by a light,
14 heat, or power company, except property under s. 66.0813, or by an electric
15 cooperative, is decommissioned, the county shall be paid, from the public utility
16 account, an amount calculated by subtracting an amount equal to the property taxes
17 paid for that property during the current year to the county for its general operations
18 from the following percentages of the payment the county received under this section
19 during the last year that the property was exempt from the property tax:

- 20 1. In the first year that the property is taxable, 100%.
- 21 2. In the 2nd year that the property is taxable, 80%.
- 22 3. In the 3rd year that the property is taxable, 60%.
- 23 4. In the 4th year that the property is taxable, 40%.
- 24 5. In the 5th year that the property is taxable, 20%.

25 **SECTION 13.** 79.04 (6) of the statutes is created to read:

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1 79.04 (6) (a) Annually, beginning in 2005, for production plants that begin
2 operation after December 31, 2003, or undergo repowering after December 31, 2003,
3 the department of administration, upon certification by the department of revenue,
4 shall distribute payments from the public utility account, as determined under par.
5 (b), to each municipality and county in which a production plant is located, if the
6 production plant has a name-plate capacity of at least one megawatt and is used by
7 a light, heat, or power company assessed under s. 76.28 (2) or 76.29 (2), except
8 property described in s. 66.0813, unless the production plant is owned or operated
9 by a local governmental unit located outside of the municipality; by a qualified
10 wholesale electric company, as defined in s. 76.28 (1) (gm); by a wholesale merchant
11 plant, as defined in s. 196.491 (1) (w); by an electric cooperative assessed under ss.
12 76.07 and 76.48, respectively; or by a municipal electric company under s. 66.0825.

13 (b) Subject to pars. (c) and (d), each municipality entitled to a payment under
14 par. (a) and each county in which such a municipality is located shall receive a
15 payment equal to a portion of an amount that is equal to the number of megawatts
16 that represents the production plant's name-plate capacity, multiplied by \$2,000.

17 (c) 1. If the production plant is located in a city or village, the city or village
18 receives a payment equal to two-thirds of the amount determined under par. (b) and
19 the county in which the city or village is located receives a payment equal to
20 one-third of the amount determined under par. (b). If the production plant is located
21 in a town, the town receives a payment equal to one-third of the amount determined
22 under par. (b), and the county in which the town is located receives a payment equal
23 to two-thirds of the amount determined under par. (b). If a municipality is located
24 in more than one county, the county in which the production plant is located shall
25 receive the county portion of the payment.

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1 2. For the purpose of determining the amount of the payment under par. (b),
2 if a production plant is located in more than one municipality, the name-plate
3 capacity of the production plant is attributable to the municipality in which the
4 majority of the plant is physically located and the payment amount that would result
5 under par. (b) as if there are no other plants in that municipality shall be divided
6 among the municipalities in which the plant is located based on the net book value
7 of that portion of the plant located in each municipality as of December 31, 2004, or
8 as of the date on which the plant is operational, whichever is later.

9 (d) The total amount distributable to a municipality under this subsection and
10 sub. (1) in any fiscal year shall not exceed an amount equal to the municipality's
11 population multiplied by \$300, and the total amount distributable to a county under
12 this subsection and sub. (2) in any year shall not exceed an amount equal to the
13 county's population multiplied by \$100.

14 **SECTION 14.** 79.04 (7) of the statutes is created to read:

15 79.04 (7) (a) Beginning with payments in 2005, if a production plant, as
16 described in sub. (6) (a), other than a nuclear-powered production plant, is built on
17 the site of, or on a site adjacent to, an existing or decommissioned production plant;
18 or is built on a site purchased by a public utility before January 1, 1980, that was
19 identified in an advance plan as a proposed site for a production plant; or is built on,
20 or on a site adjacent to, brownfields, as defined in s. 560.13 (1) (a), after December
21 31, 2003, and has a name-plate capacity of at least one megawatt, each municipality
22 and county in which such a production plant is located shall receive annually from
23 the public utility account a payment in an amount that is equal to the number of
24 megawatts that represents the production plant's name-plate capacity, multiplied
25 by \$600.

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1 (b) Beginning with payments in 2005, if a production plant, as described in sub.
2 (6) (a), that is a baseload electric generating facility, as determined by the public
3 service commission, is built after December 31, 2003, and has a name-plate capacity
4 of at least 50 megawatts, each municipality and county in which such a production
5 plant is located shall receive annually from the public utility account a payment in
6 an amount that is equal to the number of megawatts that represents the production
7 plant's name-plate capacity, multiplied by \$1,000.

8 (c) Beginning with payments in 2005, if a production plant, as described in sub.
9 (6) (a), that derives energy from a renewable resource, as defined in s. 196.378 (1) (h),
10 is built after December 31, 2003, and has a name-plate capacity of at least one
11 megawatt, each municipality and county in which such a production plant is located
12 shall receive annually from the public utility account a payment in an amount that
13 is equal to the number of megawatts that represents the production plant's
14 name-plate capacity, multiplied by \$1,000.

15 **SECTION 15.** 196.20 (7) of the statutes is created to read:

16 196.20 (7) (a) In this subsection, "mitigation payment" means an amount paid
17 to a municipality in which an electric generating facility is located to mitigate the
18 effects of the facility on the municipality.

19 (b) Except as provided in par. (c), an electric public utility may not recover in
20 rates any of the following:

21 1. The cost of mitigation payments paid by the utility.

22 2. The cost of mitigation payments paid by the owner or operator of an electric
23 generating facility that the owner or operator recovers from the utility by selling
24 electricity to the utility, by leasing the facility to the utility, or by any agreement

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1 between the owner or operator of the electric generating facility and the public
2 utility.

3 (c) Paragraph (b) does not apply to any public utility for which the commission
4 has determined that an application for a certificate under s. 196.491 (3) is complete
5 prior to the effective date of this paragraph [revisor inserts date].

6 **SECTION 16. Initial applicability.**

7 (1) This act first applies to distributions made on the 4th Monday in July 2005.

8 (END)