

**SENATE SUBSTITUTE AMENDMENT 1,
TO 2003 SENATE BILL 180**

June 3, 2003 – Offered by COMMITTEE ON ENERGY AND UTILITIES.

1 **AN ACT** *to renumber* 79.005 (1); *to amend* 79.005 (3), 79.04 (1) (intro.), 79.04
2 (1) (a), 79.04 (1) (b) 2., 79.04 (1) (c) 1., 79.04 (1) (c) 3., 79.04 (2) (a), 79.04 (2) (am)
3 2. and 79.04 (4); and *to create* 79.005 (1b), 79.005 (1d), 79.005 (1f), 79.005 (2m),
4 79.005 (4), 79.04 (3m), 79.04 (5), 79.04 (6), 79.04 (7) and 196.20 (7) of the
5 statutes; **relating to:** payments to local governments for public utilities.

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

6 **SECTION 1.** 79.005 (1) of the statutes is renumbered 79.005 (1m).

7 **SECTION 2.** 79.005 (1b) of the statutes is created to read:

8 79.005 **(1b)** “Alternative energy resource” means a renewable resource, as
9 defined in s. 196.378 (1) (h); garbage, as defined in s. 289.01 (9); or
10 nonvegetation-based industrial, commercial, or household waste.

11 **SECTION 3.** 79.005 (1d) of the statutes is created to read:

1 79.005 **(1d)** “Baseload electric generating facility” means an electric
2 generating facility that has a capacity factor that is greater than 60%.

3 **SECTION 4.** 79.005 (1f) of the statutes is created to read:

4 79.005 **(1f)** “Capacity factor” means the actual annual output of an electric
5 generating facility expressed as a percentage of the facility’s potential output or, for
6 an electric generating facility that has not been in operation for one year, the
7 projected annual output of an electric generating facility expressed as a percentage
8 of the facility’s potential output.

9 **SECTION 5.** 79.005 (2m) of the statutes is created to read:

10 79.005 **(2m)** “Power generation unit” means a complete set of electric
11 generating equipment, as defined in s. 196.52 (9) (a) 1., that, collectively, is sufficient
12 to generate electric power.

13 **SECTION 6.** 79.005 (3) of the statutes is amended to read:

14 79.005 **(3)** “Production plant” ~~also includes~~ does not include substations and
15 general structures.

16 **SECTION 7.** 79.005 (4) of the statutes is created to read:

17 79.005 **(4)** “Repowered” means any of the following:

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

21 (b) Adding a heat recovery steam generator to a simple cycle combustion
22 turbine.

23 (c) Demolishing or abandoning an existing power generation unit and replacing
24 it with a new power generation unit at the same site.

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

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

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

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

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

11 **SECTION 10.** 79.04 (1) (b) 2. of the statutes is amended to read:

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

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

20 79.04 (1) (c) 1. The payment for any municipality in which a production plant
21 is located, which the public service commission certifies to the department of revenue
22 will produce a nominal rated capacity of 200 megawatts or more, shall be no less than
23 \$75,000 annually, except that the amount distributable to a municipality in any year
24 shall not exceed the per capita limit specified in par. (a). ~~Payments under this~~

1 paragraph may be extended to decommissioned production plants as provided in
2 subd. 3.

3 **SECTION 12.** 79.04 (1) (c) 3. of the statutes is amended to read:

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

12 **SECTION 13.** 79.04 (2) (a) of the statutes is amended to read:

13 79.04 (2) (a) Annually, except for production plants that begin operation after
14 December 31, 2003, or begin operation as a repowered production plant after
15 December 31, 2003, the department of administration, upon certification by the
16 department of revenue, shall distribute from the shared revenue account to any
17 county having within its boundaries a production plant ~~or a~~ general structure,
18 ~~including production plants and general structures under construction or~~
19 substation, used by a light, heat or power company assessed under s. 76.28 (2) or
20 76.29 (2), except property described in s. 66.0813 unless the production plant or
21 substation is owned or operated by a local governmental unit that is located outside
22 of the municipality in which the production plant or substation is located, or by an
23 electric cooperative assessed under ss. 76.07 and 76.48, respectively, or by a
24 municipal electric company under s. 66.0825 an amount determined by multiplying
25 by 6 mills in the case of property in a town and by 3 mills in the case of property in

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

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

23 79.04 (2) (am) 2. When a light, heat or power company no longer uses property
24 described under par. (a) as production plant, substation, or general structure in a
25 county, the amount established under subd. 1. shall be reduced by the proportion that

1 the property that is no longer used bears to the total value of all property described
2 in par. (a) in the county. The proportion shall be determined according to the
3 proportional value of the property when the light, heat or power company stops using
4 the property.

5 **SECTION 15.** 79.04 (3m) of the statutes is created to read:

6 79.04 **(3m)** For purposes of determining the amount of the payments under
7 subs. (1) and (2), the payments for a municipality and county in which an ash disposal
8 facility that is owned and operated by an electric cooperative is operating prior to the
9 effective date of this subsection ... [revisor inserts date], shall be calculated to
10 include an amount that is equal to the net book value of the ash disposal facility
11 multiplied by 2.

12 **SECTION 16.** 79.04 (4) of the statutes is amended to read:

13 79.04 **(4)** (a) Annually, in addition to the ~~amount~~ amounts distributed under
14 ~~sub. (1)~~ subs. (1), (5), (6), and (7), the department of administration shall distribute
15 \$50,000 to a municipality if spent nuclear fuel is stored within the municipality on
16 December 31 of the preceding year. If a spent nuclear fuel storage facility is located
17 within one mile of a municipality, that municipality shall receive \$10,000 annually
18 and the municipality where that storage facility is located shall receive \$40,000
19 annually.

20 (b) Annually, in addition to the ~~amount~~ amounts distributed under ~~sub. (2)~~
21 subs. (2), (5), (6), and (7), the department of administration shall distribute \$50,000
22 to a county if spent nuclear fuel is stored within the county on December 31 of the
23 preceding year. If a spent nuclear fuel storage facility is located at a production plant
24 located in more than one county, the payment shall be apportioned according to the
25 formula under sub. (1) (c) 2., except that the formula, as it applies to municipalities

1 in that subdivision, applies to counties in this paragraph. The payment under this
2 paragraph may not be less than \$10,000 annually.

3 **SECTION 17.** 79.04 (5) of the statutes is created to read:

4 79.04 (5) (a) Beginning with the distributions in 2005, if property that was
5 exempt from the property tax under s. 70.112 (4) and that was used to generate power
6 by a light, heat, or power company, except property under s. 66.0813, unless the
7 production plant is owned or operated by a local governmental unit located outside
8 of the municipality, or by an electric cooperative, or by a municipal electric company
9 under s. 66.0825, is decommissioned, the municipality shall be paid, from the shared
10 revenue account, an amount calculated by subtracting an amount equal to the
11 property taxes paid for that property during the current year to the municipality for
12 its general operations from the following percentages of the payment that the
13 municipality received under this section during the last year that the property was
14 exempt from the property tax:

- 15 1. In the first year that the property is taxable, 100%.
- 16 2. In the 2nd year that the property is taxable, 80%.
- 17 3. In the 3rd year that the property is taxable, 60%.
- 18 4. In the 4th year that the property is taxable, 40%.
- 19 5. In the 5th year that the property is taxable, 20%.

20 (b) Beginning with the distributions in 2005, if property that was exempt from
21 the property tax under s. 70.112 (4) and that was used to generate power by a light,
22 heat, or power company, except property under s. 66.0813, unless the production
23 plant is owned or operated by a local governmental unit located outside of the
24 municipality, or by an electric cooperative, or by a municipal electric company under
25 s. 66.0825, is decommissioned, the county shall be paid, from the shared revenue

1 account, an amount calculated by subtracting an amount equal to the property taxes
2 paid for that property during the current year to the county for its general operations
3 from the following percentages of the payment the county received under this section
4 during the last year that the property was exempt from the property tax:

5 1. In the first year that the property is taxable, 100%.

6 2. In the 2nd year that the property is taxable, 80%.

7 3. In the 3rd year that the property is taxable, 60%.

8 4. In the 4th year that the property is taxable, 40%.

9 5. In the 5th year that the property is taxable, 20%.

10 **SECTION 18.** 79.04 (6) of the statutes is created to read:

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

24 (b) Subject to pars. (c) and (d), each municipality entitled to a payment under
25 par. (a) and each county in which such a municipality is located shall receive a

1 payment equal to a portion of an amount that is equal to the number of megawatts
2 that represents the production plant's name-plate capacity, multiplied by \$2,000.

3 (c) 1. If the production plant is located in a city or village, the city or village
4 receives a payment equal to two-thirds of the amount determined under par. (b) and
5 the county in which the city or village is located receives a payment equal to
6 one-third of the amount determined under par. (b). If the production plant is located
7 in a town, the town receives a payment equal to one-third of the amount determined
8 under par. (b), and the county in which the town is located receives a payment equal
9 to two-thirds of the amount determined under par. (b). If a municipality is located
10 in more than one county, the county in which the production plant is located shall
11 receive the county portion of the payment.

12 2. For the purpose of determining the amount of the payment under par. (b),
13 if a production plant is located in more than one municipality, the payment amount
14 under par. (b) shall be divided among the municipalities in which the plant is located
15 based on the net book value of that portion of the plant located in each municipality
16 as of December 31, 2004, or as of the date on which the plant is operational,
17 whichever is later.

18 (d) The total amount distributable to a municipality under this subsection and
19 sub. (1) in any fiscal year shall not exceed an amount equal to the municipality's
20 population multiplied by \$300, and the total amount distributable to a county under
21 this subsection and sub. (2) in any year shall not exceed an amount equal to the
22 county's population multiplied by \$100.

23 **SECTION 19.** 79.04 (7) of the statutes is created to read:

24 79.04 (7) (a) Beginning with payments in 2005, if a production plant, as
25 described in sub. (6) (a), other than a nuclear-powered production plant, is built on

1 the site of, or on a site adjacent to, an existing or decommissioned production plant;
2 or is built on a site purchased by a public utility before January 1, 1980, that was
3 identified in an advance plan as a proposed site for a production plant; or is built on,
4 or on a site adjacent to, brownfields, as defined in s. 560.13 (1) (a), after December
5 31, 2003, and has a name–plate capacity of at least one megawatt, each municipality
6 and county in which such a production plant is located shall receive annually from
7 the shared revenue account a payment in an amount that is equal to the number of
8 megawatts that represents the production plant’s name–plate capacity, multiplied
9 by \$600.

10 (b) Beginning with payments in 2005, if a production plant, as described in sub.
11 (6) (a), that is a baseload electric generating facility is built after December 31, 2003,
12 and has a name–plate capacity of at least 50 megawatts, each municipality and
13 county in which such a production plant is located shall receive annually from the
14 shared revenue account a payment in an amount that is equal to the number of
15 megawatts that represents the production plant’s name–plate capacity, multiplied
16 by \$600.

17 (c) 1. Except as provided in subd. 2., beginning with payments in 2005, if a
18 production plant, as described in sub. (6) (a), that derives energy from an alternative
19 energy resource is built after December 31, 2003, and has a name–plate capacity of
20 at least one megawatt, each municipality and county in which such a production
21 plant is located shall receive annually from the shared revenue account a payment
22 in an amount that is equal to the number of megawatts that represents the
23 production plant’s name–plate capacity, multiplied by \$1,000.

24 2. If a production plant as described under subd. 1. fires an alternative energy
25 resource together with a fuel other than an alternative energy resource, the number

1 of megawatts used to calculate the payment under subd. 1. is the number of
2 megawatts that represents the production plant's name-plate capacity multiplied by
3 a percentage that represents the energy content of the alternative energy resource
4 in the year prior to the year in which the payment is made as compared to the total
5 energy content of the alternative energy resource and the other fuel in the year prior
6 to the year in which the payment is made.

7 **SECTION 20.** 196.20 (7) of the statutes is created to read:

8 196.20 (7) (a) In this subsection, "mitigation payment" means, as approved by
9 the commission, an unrestricted or recurring monetary payment to a local unit of
10 government in which an electric generating facility is located to mitigate the impact
11 of the electric generating facility on the local unit of government. "Mitigation
12 payment" does not include payments made or in-kind contributions for restricted
13 purposes to directly address health or safety impacts of the electric generating
14 facility on the local unit of government.

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

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

18 2. The cost of mitigation payments paid by the owner or operator of an electric
19 generating facility that the owner or operator recovers from the utility by selling
20 electricity to the utility, by leasing the facility to the utility, or by any agreement
21 between the owner or operator of the electric generating facility and the public
22 utility.

23 (c) The commission shall only approve a mitigation payment agreement that
24 is received by the commission before June 1, 2003, and, if the commission finds the
25 agreement to be reasonable, shall not subsequently modify the agreement.

