

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4030/1dn
MDK:wlj:rs

January 20, 2004

Rep. Jensen:

Please review this bill carefully to make sure it achieves your intent. In particular, please note the following:

1. The provisions of the proposal that you submitted regarding security interests and sales of environmental control property were difficult for me to understand. Therefore, I suggest you pay particular attention to proposed s. 196.027 (5). Some of the language that I used is based on s. 16.63 (4) (b) and (c), stats., which deals with similar issues regarding the sale of the state's rights to tobacco settlement payments.
2. Regarding security interests, the material on page 9, lines 16 to 19, of the proposal is not included because I'm not sure what that material is supposed to accomplish. In particular, the rest of the proposal does not describe how a financing order creates a security interest. Also, regarding security interests, I am not sure how to incorporate the material in the proposal on page 10, lines 12 to 16.
3. Proposed s. 196.027 (5) (a) 3. is intended to accomplish the material in the proposal on page 10, lines 17 to 23. Also, isn't the material on page 10, line 23, to page 11, line 2, redundant, based on the other provisions in the bill regarding bankruptcy?
4. In some cases, the proposal appeared to me to impose substantive requirements in definitions, which is contrary to our drafting style. For example, I did not include a definition for "nonbypassable charge" or use that term in the bill. Instead, I tried to accomplish the purpose of the definition in proposed s. 196.027 (2) (b) 2. b.
5. The material in the proposal on page 2, lines 5 and 6, is not included because it has logical problems. "Environmental control charges" are defined to refer to "environmental control costs." However, in the cited material in the proposal, the definition of "environmental control costs" refers back to "environmental control charges." This approach seems circular and unclear.
6. In the definition of "environmental control equipment," I don't think it's necessary to include references to the terms defined in the Wisconsin Administrative Code.
7. Revenues are not included in the definition of "environmental control property" because I'm not sure what that inclusion is supposed to accomplish.

8. The bill does not affect the requirements for a certificate of authority or a certificate of public convenience and necessity. Therefore, there is no need to include the material in the proposal on page 4, lines 11 to 15.
9. Proposed s. 196.027 (2) (b) 3. is intended to correspond to the material in the proposal on page 4, lines 9 to 11. However, I'm not sure whether I've carried out your intent.
10. The material in the proposal on page 6, lines 1 to 5, seems redundant and is not included.
11. The material on page 6, lines 6 to 9, is not included because I'm not sure what it accomplishes. If you are attempting to remove financing orders from the jurisdiction of a court, that would raise separation of powers issues.
12. Proposed s. 196.027 (3) is intended to correspond to the material in the proposal on page 7, lines 3 to 10.
13. The material in the proposal on page 11, lines 3 and 4, is not included because I don't know what it is intended to accomplish.
14. The material in the proposal on page 11, lines 5 to 7, is not included because it seems redundant.
15. The material in the proposal on page 11, lines 14 to 16, is not included because I don't know what you are trying to accomplish. Why is the reference to the laws of other states necessary?
16. Is the material in the proposal on page 12, lines 12 to 17, necessary? (It isn't included in the bill.) Don't the terms of an assignment govern these issues?
17. Why is it necessary to exclude assignees from the definition of public utility (which is accomplished in proposed s. 196.01 (5) b. 7.)? Also, in the material in the proposal on page 12, lines 18 and 19, what is a "financing party"?
18. The material in the proposal on page 12, line 21, to page 13, line 4, is not necessary. See s. 990.001 (11), stats.
19. Proposed s. 196.027 (7) is based on s. 16.527 (9), stats.

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The material on page 12, lines 7 to 11 (regarding taxes), is not included in the bill because the intent of the material is not clear. Do you mean that the income derived from an environmental trust bond is exempt from the imposition of state income and

franchise taxes? Do you want such income to be excluded from the calculation of any license fee imposed under current law? Please advise.

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