

2003 DRAFTING REQUEST

Bill

Received: **05/29/2003**

Received By: **jkreye**

Wanted: **Today**

Identical to LRB: **03s0096/1**

For: **Mark Gottlieb (608) 267-2369**

By/Representing: **brett healy**

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

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Shared Revenue
Public Util. - misc.**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Gottlieb@legis.state.wi.us**

Carbon copy (CC:) to: **joseph.kreye@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Utility aid payments

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 05/29/2003	kgilfoy 05/29/2003		_____			S&L
/1	jkreye 06/02/2003	kgilfoy 06/02/2003	pgreensl 05/29/2003	_____	amentkow 05/29/2003		S&L
/2			rschluet	_____	lemery	amentkow	

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			06/02/2003 _____		06/02/2003	06/03/2003	

FE Sent For:

At intro.

<END>

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/1		1/2 - 6/2 King	pgreensl 05/29/2003	_____	amentkow 05/29/2003		

99 JF
6-23

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1?	jkreye	1-5/29 krug	5/29 p8	5/29 p8/gk			

FE Sent For:

<END>

5-28-03

~~Revised~~

Brett - Jensen's Office .4-6970

* will need Assembly companion to Sen Coyle's bill
Amended to reflect
changes as of 5-28-03

* for Rep Gottlieb

2767/1



~~SENATE SUBSTITUTE AMENDMENT,
TO 2003 SENATE BILL 180~~

Today
5-29-03

D-N

Gen. Cat.

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

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

8 SECTION 1. 20.835 (1) (d) of the statutes is amended to read:
9 20.835 (1) (d) *Shared revenue account.* A sum sufficient to meet the
10 requirements of the shared revenue account established under s. 79.01 (2) to provide
11 for the distributions from the shared revenue account to counties, towns, villages and
12 cities under ss. 79.03, 79.04 (1) to (4), and 79.06.

INSERT
A

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

2 20.835 (1) (dm) *Public utility distribution account.* A sum sufficient to make
3 the payments under s. 79.04 (5), (6), and (7).

4 **SECTION 3.** 79.005 (1) of the statutes is renumbered 79.005 (1m).

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

6 79.005 (1b) “Alternative energy resource” means a renewable resource, as
7 defined in s. 196.378 (1) (h); garbage, as defined in s. 289.01 (9); or
8 nonvegetation–based industrial, commercial, or household waste, unless the energy
9 content of the waste is derived primarily from petroleum–based materials.

10 **SECTION 5.** 79.005 (1d) of the statutes is created to read:

11 79.005 (1d) “Baseload electric generating facility” means an electric
12 generating facility that has a capacity factor that is greater than 60%.

13 **SECTION 6.** 79.005 (1f) of the statutes is created to read:

14 79.005 (1f) “Capacity factor” means the actual annual output of an electric
15 generating facility expressed as a percentage of the facility’s potential output or, for
16 an electric generating facility that has not been in operation for one year, the
17 projected annual output of an electric generating facility expressed as a percentage
18 of the facility’s potential output.

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

20 79.005 (2m) “Power generation unit” means a complete set of electric
21 generating equipment, as defined in s. 196.52 (9) (a) 1., that, collectively, is sufficient
22 to generate electric power.

23 **SECTION 8.** 79.005 (3) of the statutes is amended to read:

24 79.005 (3) “Production plant” ~~also includes~~ does not include substations and
25 general structures.

1 **SECTION 9.** 79.005 (4) of the statutes is created to read:

2 79.005 (4) "Repowering" means any of the following:

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

6 (b) Adding a heat recovery steam generator to a simple cycle combustion
7 turbine.

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

10 **SECTION 10.** 79.01 (2m) of the statutes is created to read:

11 79.01 (2m) There is established an account in the general fund entitled the
12 "Public Utility Distribution Account," referred to in this chapter as the "public utility
13 account." There shall be appropriated to the public utility account the sums specified
14 in s. 79.04 (5), (6), and (7).

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

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

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

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

4 79.04 (1) (a) An amount from the shared revenue account determined by
5 multiplying by 3 mills in the case of a town, and 6 mills in the case of a city or village,
6 the first \$125,000,000 of the amount shown in the account, plus leased property, of
7 each public utility except qualified wholesale electric companies, as defined in s.
8 76.28 (1) (gm), on December 31 of the preceding year for either "production plant,
9 exclusive of land" ~~and,~~ "general structures", or ~~"work in progress" for production~~
10 ~~plants and general structures under construction,~~ and "substations," in the case of
11 light, heat and power companies, electric cooperatives or municipal electric
12 companies, for all property within a municipality in accordance with the system of
13 accounts established by the public service commission or rural electrification
14 administration, less depreciation thereon as determined by the department of
15 revenue and less the value of treatment plant and pollution abatement equipment,
16 as defined under s. 70.11 (21) (a), as determined by the department of revenue plus
17 an amount from the shared revenue account determined by multiplying by 3 mills
18 in the case of a town, and 6 mills in the case of a city or village, of the first
19 \$125,000,000 of the total original cost of production plant, general structures, and
20 ~~work in progress~~ substations less depreciation, land and approved waste treatment
21 facilities of each qualified wholesale electric company, as defined in s. 76.28 (1) (gm),
22 as reported to the department of revenue of all property within the municipality. The
23 total of amounts, as depreciated, from the accounts of all public utilities for the same
24 production plant is also limited to not more than \$125,000,000. The amount

1 distributable to a municipality under this subsection and sub. (6) in any year shall
2 not exceed \$300 times the population of the municipality.

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

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

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

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

19 **SECTION 15.** 79.04 (1) (c) 2. of the statutes is amended to read:

20 79.04 (1) (c) 2. If a production plant or substation is located in more than one
21 municipality, the total payment under subd. 1. shall be apportioned according to the
22 amounts shown on the preceding December 31 for the production plant in the account
23 described in par. (a) for “production plant exclusive of land” or “substation” within
24 each municipality for all public utilities except qualified wholesale electric
25 companies, as defined in s. 76.28 (1) (gm), or according to the value as reported to the

1 department of revenue under par. (a) of the production plant or substation within
2 each municipality for each qualified wholesale electric company. The payment to
3 each municipality under this subdivision shall be no less than \$15,000 annually.

4 **SECTION 16.** 79.04 (1) (c) 3. of the statutes is repealed.

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

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

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

14 **SECTION 18.** 79.04 (2) (am) 2. of the statutes is amended to read:

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

22 **SECTION 19.** 79.04 (2) (b) of the statutes is amended to read:

23 79.04 (2) (b) The payment under par. (a) for any county in which a production
24 plant or substation is located, which the public service commission certifies to the
25 department of revenue will produce a nominal rated capacity of 200 megawatts or

1 more, shall be not less than \$75,000 annually, except that the amount distributable
2 to a county in any year shall not exceed the per capita limit specified in par. (a).

3 **SECTION 20.** 79.04 (3m) of the statutes is created to read:

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

10 **SECTION 21.** 79.04 (4) of the statutes is amended to read:

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

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

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

2 79.04 (5) (a) Beginning with the distributions in 2005, if property that was
3 exempt from the property tax under s. 70.112 (4) and that was used to generate power
4 by a light, heat, or power company, except property under s. 66.0813, unless the
5 production plant is owned or operated by a local governmental unit located outside
6 of the municipality, or by an electric cooperative, or by a municipal electric company
7 under s. 66.0825, is decommissioned, the municipality shall be paid, from the public
8 utility account, an amount calculated by subtracting an amount equal to the
9 property taxes paid for that property during the current year to the municipality for
10 its general operations from the following percentages of the payment that the
11 municipality received under this section during the last year that the property was
12 exempt from the property tax:

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

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

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

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

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

18 (b) Beginning with the distributions in 2005, if property that was exempt from
19 the property tax under s. 70.112 (4) and that was used to generate power by a light,
20 heat, or power company, except property under s. 66.0813, unless the production
21 plant is owned or operated by a local governmental unit located outside of the
22 municipality, or by an electric cooperative, or by a municipal electric company under
23 s. 66.0825, is decommissioned, the county shall be paid, from the public utility
24 account, an amount calculated by subtracting an amount equal to the property taxes
25 paid for that property during the current year to the county for its general operations

1 from the following percentages of the payment the county received under this section
2 during the last year that the property was exempt from the property tax:

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

8 **SECTION 23.** 79.04 (6) of the statutes is created to read:

9 79.04 (6) (a) Annually, beginning in 2005, for production plants that begin
10 operation after December 31, 2003, or undergo repowering after December 31, 2003,
11 the department of administration, upon certification by the department of revenue,
12 shall distribute payments from the public utility account, as determined under par.
13 (b), to each municipality and county in which a production plant is located, if the
14 production plant has a name-plate capacity of at least one megawatt and is used by
15 a light, heat, or power company assessed under s. 76.28 (2) or 76.29 (2), except
16 property described in s. 66.0813, unless the production plant is owned or operated
17 by a local governmental unit located outside of the municipality; by a qualified
18 wholesale electric company, as defined in s. 76.28 (1) (g_{III}); by a wholesale merchant
19 plant, as defined in s. 196.491 (1) (w); by an electric cooperative assessed under ss.
20 76.07 and 76.48, respectively; or by a municipal electric company under s. 66.0825.

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

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

10 2. For the purpose of determining the amount of the payment under par. (b),
11 if a production plant is located in more than one municipality, the name-plate
12 capacity of the production plant is attributable to the municipality in which the
13 majority of the plant is physically located and the payment amount under par. (b)
14 shall be divided among the municipalities in which the plant is located based on the
15 net book value of that portion of the plant located in each municipality as of
16 December 31, 2004, or as of the date on which the plant is operational, whichever is
17 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 24.** 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 public utility 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, as determined by the public
12 service commission, is built after December 31, 2003, and has a name-plate capacity
13 of at least 50 megawatts, each municipality and county in which such a production
14 plant is located shall receive annually from the public utility account a payment in
15 an amount that is equal to the number of megawatts that represents the production
16 plant's name-plate capacity, multiplied 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 public utility account a payment in
22 an amount that is equal to the number of megawatts that represents the production
23 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 in which the payment is made as compared to the total energy content
5 of the alternative energy resource and the other fuel in the year in which the payment
6 is made.

7 **SECTION 25.** 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) Paragraph (b) does not apply to any public utility that has filed an
24 application for a certificate under s. 196.491 (3) on or before June 1, 2003.

25 **SECTION 26. Initial applicability.**

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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 INSERT A

SENATE BILL 180

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 ~~any~~ ^{an alternative} renewable resource. The amount of the payment under this ~~first criterion~~ ^{first criterion} equals the production plant's megawatt capacity multiplied by \$600, and the amount of the payment under the ~~second and third criteria~~ ^{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.

an alternative energy
first and second criteria

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

SECTION 1. 20.835 (1) (d) of the statutes is amended to read:

end of subsect A

10-20-184

~~JK~~

2767/dn

JK : King :

Representative Gottlieb:

This bill is identical to Senate Bill 180,
related to utility aid payments,^s as amended
by the senate substitute amendment, LRBs 0096/1.

Please contact me if you have any questions.

JK

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2767/1dn
JK:kmg:pg

May 29, 2003

Representative Gottlieb:

This bill is identical to Senate Bill 180, related to utility aid payments, as amended by the senate substitute amendment, LRBs0096/1. Please contact me if you have any questions.

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



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2767/1

JK:kg:pg

2003 BILL

in 6-2-03

Today

D-N

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

✓
IN DEPT
1-1

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

BILL

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 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~~ *Service Commission* or 3) it is a production plant that derives energy from an alternative energy resource. The amount of the payment under this first and second criteria equals the production plant's megawatt capacity multiplied by \$600, and the amount of the payment under the third criterion 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.

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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.** 20.835 (1) (d) of the statutes is amended to read:

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

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

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

9 **SECTION 3.** 79.005 (1) of the statutes is renumbered 79.005 (1m).

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

11 79.005 (1b) “Alternative energy resource” means a renewable resource, as
12 defined in s. 196.378 (1) (h); garbage, as defined in s. 289.01 (9); or
13 nonvegetation-based industrial, commercial, or household waste, unless the energy
14 content of the waste is derived primarily from petroleum-based materials.

15 **SECTION 5.** 79.005 (1d) of the statutes is created to read:

16 79.005 (1d) “Baseload electric generating facility” means an electric
17 generating facility that has a capacity factor that is greater than 60%.

18 **SECTION 6.** 79.005 (1f) of the statutes is created to read:

19 79.005 (1f) “Capacity factor” means the actual annual output of an electric
20 generating facility expressed as a percentage of the facility’s potential output or, for
21 an electric generating facility that has not been in operation for one year, the

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1 projected annual output of an electric generating facility expressed as a percentage
2 of the facility's potential output.

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

4 79.005 (2m) "Power generation unit" means a complete set of electric
5 generating equipment, as defined in s. 196.52 (9) (a) 1., that, collectively, is sufficient
6 to generate electric power.

7 **SECTION 8.** 79.005 (3) of the statutes is amended to read:

8 79.005 (3) "Production plant" ~~also includes~~ does not include substations and
9 general structures.

10 **SECTION 9.** 79.005 (4) of the statutes is created to read:

11 79.005 (4) "Repowering" means any of the following:

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

15 (b) Adding a heat recovery steam generator to a simple cycle combustion
16 turbine.

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

19 **SECTION 10.** 79.01 (2m) of the statutes is created to read:

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

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

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

12 **SECTION 12.** 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

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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 13.** 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 14.** 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 or substation is located, which the public service commission certifies to the
22 department of revenue will produce a nominal rated capacity of 200 megawatts or
23 more, shall be no less than \$75,000 annually, except that the amount distributable
24 to a municipality in any year shall not exceed the per capita limit specified in par.

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1 (a). ~~Payments under this paragraph may be extended to decommissioned production~~
2 ~~plants as provided in subd. 3.~~

3 **SECTION 15.** 79.04 (1) (c) 2. of the statutes is amended to read:

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

13 **SECTION 16.** 79.04 (1) (c) 3. of the statutes is repealed.

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

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

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

23 **SECTION 18.** 79.04 (2) (am) 2. of the statutes is amended to read:

24 79.04 (2) (am) 2. When a light, heat or power company no longer uses property
25 described under par. (a) as production plant, substation, or general structure in a

BILL

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

6 **SECTION 19.** 79.04 (2) (b) of the statutes is amended to read:

7 79.04 (2) (b) The payment under par. (a) for any county in which a production
8 plant or substation is located, which the public service commission certifies to the
9 department of revenue will produce a nominal rated capacity of 200 megawatts or
10 more, shall be not less than \$75,000 annually, except that the amount distributable
11 to a county in any year shall not exceed the per capita limit specified in par. (a).

12 **SECTION 20.** 79.04 (3m) of the statutes is created to read:

13 79.04 (3m) For purposes of determining the amount of the payments under
14 subs. (1) and (2), the payments for a municipality and county in which an ash disposal
15 facility that is owned and operated by an electric cooperative is operating prior to the
16 effective date of this subsection [revisor inserts date], shall be calculated to
17 include an amount that is equal to the net book value of the ash disposal facility
18 multiplied by 2.

19 **SECTION 21.** 79.04 (4) of the statutes is amended to read:

20 79.04 (4) (a) Annually, in addition to the amount amounts distributed under
21 sub. (1) subs. (1), (5), (6), and (7), the department of administration shall distribute
22 \$50,000 to a municipality if spent nuclear fuel is stored within the municipality on
23 December 31 of the preceding year. If a spent nuclear fuel storage facility is located
24 within one mile of a municipality, that municipality shall receive \$10,000 annually

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1 and the municipality where that storage facility is located shall receive \$40,000
2 annually.

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

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

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

- 23 1. In the first year that the property is taxable, 100%.
- 24 2. In the 2nd year that the property is taxable, 80%.
- 25 3. In the 3rd year that the property is taxable, 60%.

BILL

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

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

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

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

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

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

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

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

18 **SECTION 23.** 79.04 (6) of the statutes is created to read:

19 79.04 (6) (a) Annually, beginning in 2005, for production plants that begin
20 operation after December 31, 2003, or undergo repowering after December 31, 2003,
21 the department of administration, upon certification by the department of revenue,
22 shall distribute payments from the public utility account, as determined under par.
23 (b), to each municipality and county in which a production plant is located, if the
24 production plant has a name-plate capacity of at least one megawatt and is used by
25 a light, heat, or power company assessed under s. 76.28 (2) or 76.29 (2), except

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1 property described in s. 66.0813, unless the production plant is owned or operated
2 by a local governmental unit located outside of the municipality; by a qualified
3 wholesale electric company, as defined in s. 76.28 (1) (gm); by a wholesale merchant
4 plant, as defined in s. 196.491 (1) (w); by an electric cooperative assessed under ss.
5 76.07 and 76.48, respectively; or by a municipal electric company under s. 66.0825.

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

10 (c) 1. If the production plant is located in a city or village, the city or village
11 receives a payment equal to two-thirds of the amount determined under par. (b) and
12 the county in which the city or village is located receives a payment equal to
13 one-third of the amount determined under par. (b). If the production plant is located
14 in a town, the town receives a payment equal to one-third of the amount determined
15 under par. (b), and the county in which the town is located receives a payment equal
16 to two-thirds of the amount determined under par. (b). If a municipality is located
17 in more than one county, the county in which the production plant is located shall
18 receive the county portion of the payment.

19 2. For the purpose of determining the amount of the payment under par. (b),
20 if a production plant is located in more than one municipality, the name-plate
21 capacity of the production plant is attributable to the municipality in which the
22 majority of the plant is physically located and the payment amount under par. (b)
23 shall be divided among the municipalities in which the plant is located based on the
24 net book value of that portion of the plant located in each municipality as of

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1 December 31, 2004, or as of the date on which the plant is operational, whichever is
2 later.

3 (d) The total amount distributable to a municipality under this subsection and
4 sub. (1) in any fiscal year shall not exceed an amount equal to the municipality's
5 population multiplied by \$300, and the total amount distributable to a county under
6 this subsection and sub. (2) in any year shall not exceed an amount equal to the
7 county's population multiplied by \$100.

8 **SECTION 24.** 79.04 (7) of the statutes is created to read:

9 79.04 (7) (a) Beginning with payments in 2005, if a production plant, as
10 described in sub. (6) (a), other than a nuclear-powered production plant, is built on
11 the site of, or on a site adjacent to, an existing or decommissioned production plant;
12 or is built on a site purchased by a public utility before January 1, 1980, that was
13 identified in an advance plan as a proposed site for a production plant; or is built on,
14 or on a site adjacent to, brownfields, as defined in s. 560.13 (1) (a), after December
15 31, 2003, and has a name-plate capacity of at least one megawatt, each municipality
16 and county in which such a production plant is located shall receive annually from
17 the public utility account a payment in an amount that is equal to the number of
18 megawatts that represents the production plant's name-plate capacity, multiplied
19 by \$600.

20 (b) Beginning with payments in 2005, if a production plant, as described in sub.
21 (6) (a), that is a baseload electric generating facility, as determined by the public
22 service commission, is built after December 31, 2003, and has a name-plate capacity
23 of at least 50 megawatts, each municipality and county in which such a production
24 plant is located shall receive annually from the public utility account a payment in

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1 an amount that is equal to the number of megawatts that represents the production
2 plant's name-plate capacity, multiplied by \$600.

3 (c) 1. Except as provided in subd. 2., beginning with payments in 2005, if a
4 production plant, as described in sub. (6) (a), that derives energy from an alternative
5 energy resource is built after December 31, 2003, and has a name-plate capacity of
6 at least one megawatt, each municipality and county in which such a production
7 plant is located shall receive annually from the public utility account a payment in
8 an amount that is equal to the number of megawatts that represents the production
9 plant's name-plate capacity, multiplied by \$1,000.

10 2. If a production plant as described under subd. 1. fires an alternative energy
11 resource together with a fuel other than an alternative energy resource, the number
12 of megawatts used to calculate the payment under subd. 1. is the number of
13 megawatts that represents the production plant's name-plate capacity multiplied by
14 a percentage that represents the energy content of the alternative energy resource
15 in the year in which the payment is made as compared to the total energy content
16 of the alternative energy resource and the other fuel in the year in which the payment
17 is made.

18 **SECTION 25.** 196.20 (7) of the statutes is created to read:

19 196.20 (7) (a) In this subsection, "mitigation payment" means, as approved by
20 the commission, an unrestricted or recurring monetary payment to a local unit of
21 government in which an electric generating facility is located to mitigate the impact
22 of the electric generating facility on the local unit of government. "Mitigation
23 payment" does not include payments made or in-kind contributions for restricted
24 purposes to directly address health or safety impacts of the electric generating
25 facility on the local unit of government.

BILL

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

- 3 1. The cost of mitigation payments paid by the utility.
4 2. The cost of mitigation payments paid by the owner or operator of an electric
5 generating facility that the owner or operator recovers from the utility by selling
6 electricity to the utility, by leasing the facility to the utility, or by any agreement
7 between the owner or operator of the electric generating facility and the public
8 utility.

9 (c) Paragraph (b) does not apply to any public utility that has filed an
10 application for a certificate under s. 196.491 (3) on or before June 1, 2003.

11 **SECTION 26. Initial applicability.**

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

13

(END)

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~~SENATE SUBSTITUTE AMENDMENT,
TO 2003 SENATE BILL 180~~

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Sen. Cat

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:

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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:

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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~~

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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

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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

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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

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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

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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

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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.

1 **SECTION 21. Initial applicability.**

2 (1) The treatment of sections 79.005 (1), (1b), (1d), (1f), (2m), (3), and (4) and
3 79.04 (1) (intro.), (a), (b) 2., and (c) 1., (2) (a) and (am) 2., (3m), (4), (5), (6), and (7) of
4 the statutes first applies to distributions made on the 4th Monday in July, 2005.

5

~~(END)~~

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: Kmg:

Representative Gottlieb:

This bill is identical to Senate Bill 180, related to utility aid payments, as amended by the senate substitute amendment, LRBs 0096/2. Please contact me if you have any questions.

JK

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2767/2dn
JK:kmg:rs

June 2, 2003

Representative Gottlieb:

This bill is identical to Senate Bill 180, related to utility aid payments, as amended by the senate substitute amendment, LRBs0096/2. Please contact me if you have any questions.

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

Emery, Lynn

From: Gottlieb, Mark
Sent: Monday, June 02, 2003 2:57 PM
To: LRB.Legal
Subject: Draft review: LRB 03-2767/2 Topic: Utility aid payments

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

Draft review: LRB 03-2767/2 Topic: Utility aid payments