

**2007 DRAFTING REQUEST**

**Bill**

Received: **02/27/2007**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **David Hansen (608) 266-5670**

By/Representing: **jay**

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

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax, Property - exemption**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Hansen@legis.wisconsin.gov**

Carbon copy (CC:) to: **joseph.kreye@legis.wisconsin.gov**

**Pre Topic:**

No specific pre topic given

**Topic:**

Property tax exemption for waste treatment facilities

**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>
/P1	jkreye 02/27/2007	jdyer 02/27/2007	rschluet 02/27/2007	_____	sbasford 02/27/2007		S&L Tax
/1	jkreye 03/06/2007	jdyer 03/07/2007	pgreensl 03/07/2007	_____	sbasford 03/07/2007		S&L Tax
/2	jkreye 03/16/2007	jdyer 03/19/2007	rschluet 03/19/2007	_____	mbarman 03/19/2007		S&L Tax
	jkreye 03/21/2007	jdyer 03/21/2007		_____			

Vers.      Drafted      Reviewed      Typed      Proofed      Submitted      Jacketed      Required

/3

rschluet \_\_\_\_\_  
03/21/2007 \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

sbasford \_\_\_\_\_  
03/21/2007 \_\_\_\_\_

~~lrh de admin~~ S&L  
~~03/22/2007~~ Tax  
mbarman  
03/22/2007

FE Sent For: AT INTRO.

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rschluet \_\_\_\_\_  
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13 3/21 jld



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*1/2 3/19 jld*

*3197 <END>*

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*& Sherrie Hester-Hendrix@DOR*

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*1 3/1 jld*  
*3/1 PG*  
*3/1 PG/RS*  
<END>



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/P1	jkreye	1/1 jld/26					
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FE Sent For:

<END>

# Newark Option

Limit  
Property  
Tax  
Exemption  
To:

- Property used exclusively & directly for waste treatment, where:
  - "Used directly" means used so as to remove, store, or cause a physical or chemical change in industrial waste or air contaminants
  - "Used exclusively" means to the exclusion of all other uses except for other use not exceeding 5% of total use

Narrow  
"waste"  
definition

- Waste means material with no use and no monetary or market value and that would otherwise be discarded
- except include in the definition waste that is collected or generated on site that is used as a fuel on that same site



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-2089/P1

JK: A:...

Jld

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 2-27-07

due 3-8-07

D.N

Gen

1 AN ACT...; relating to: the property tax exemption for waste treatment facilities. ✓

**Analysis by the Legislative Reference Bureau**

Under current law, generally, all property purchased or constructed as a waste treatment facility and used to treat industrial wastes or air contaminants is exempt from property taxes. Under current law, "industrial wastes" includes wood chips, sawdust, and other wood residue from the paper and wood products manufacturing process that can be used as fuel and would otherwise be discarded.

Under this bill, all property purchased or constructed as a waste treatment facility and used exclusively and directly to remove, store, or cause a physical or chemical change in industrial waste or air contaminants is exempt from property taxes. Under the bill, "industrial waste" includes waste that is collected or generated at the waste treatment facility site and used as fuel on that site. ✓

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

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:**

2 SECTION 1. 70.11 (21) (a) of the statutes is renumbered 70.11 (21) (am) and  
3 amended to read:

1           70.11 (21) (am) All property purchased or constructed as a waste treatment  
 2 facility used for the treatment of exclusively and directly to remove, store, or cause  
 3 a physical or chemical change in industrial wastes, as defined in s. 281.01 (5), waste  
 4 or air contaminants, as defined in s. 285.01 (1), but not for other wastes, as defined  
 5 in s. 281.01 (7), for the purpose of abating or eliminating pollution of surface waters,  
 6 the air, or waters of the state if that property is not used to grow agricultural products  
 7 for sale and, if the property's owner is taxed under ch. 76, if the property is approved  
 8 by the department of revenue. For the purposes of this subsection, "industrial waste"  
 9 also includes wood chips, sawdust, and other wood residue from the paper and wood  
 10 products manufacturing process that can be used as fuel and would otherwise be  
 11 considered superfluous, discarded, or fugitive material. The department of natural  
 12 resources and department of health and family services shall make  
 13 recommendations upon request to the department of revenue regarding such  
 14 property. All property purchased or upon which construction began prior to  
 15 July 31, 1975, shall be subject to s. 70.11 (21), 1973 stats.

**History:** 1971 c. 152, 154, 312; 1973 c. 90; 1973 c. 333 s. 201m; 1973 c. 225 s. 13; 1975 c. 39; 1975 c. 94 s. 91 (10); 1975 c. 199; 1977 c. 29 ss. 745m, 1646 (3), 1647 (5),  
 (7); 1977 c. 83 s. 26; 1977 c. 273, 282, 391, 418, 447; 1979 c. 34 s. 2102 (39) (g); 1979 c. 221, 225; 1979 c. 310 s. 12; 1981 c. 20; 1983 a. 27 ss. 1177, 1178, 1179f; 1983 a. 189  
 s. 329 (16); 1983 a. 201, 327; 1985 a. 26, 29, 316, 332; 1987 a. 10, 27, 395, 399; 1987 a. 403 s. 256; 1989 a. 25, 31, 307; 1991 a. 37, 39, 269; 1993 a. 263, 307, 399, 490; 1995  
 a. 27 ss. 3344 to 3348m, 9126 (19); 1995 a. 201, 227, 247, 366; 1997 a. 27, 35, 134, 147, 164, 184, 237; 1999 a. 9, 32, 63, 65; 1999 a. 150 ss. 624, 672; 1999 a. 167, 185; 2001  
 a. 16, 38, 59, 103; 2003 a. 195, 291; 2005 a. 4, 22, 70, 74, 335.

16           **SECTION 2.** 70.11 (2) (ab) of the statutes is created to read:

17           70.11 (2) (ab) In this subsection:

- 18           1. "Air contaminants" has the meaning given in s. 285.01 (1).
- 19           2. "Industrial waste" means waste resulting from any process of industry,  
 20 trade, or business, or the development of any natural resource, that has no use or  
 21 monetary or market value, and that would otherwise be discarded, except that  
 22 "industrial waste" includes waste that is collected or generated at the waste  
 23 treatment facility site and used as fuel on that site.

1           3. "Used exclusively" means to the exclusion of all other uses except for other  
2 use not exceeding 5<sup>✓</sup> percent of total use.

3           **SECTION 3.** 74.35 (2m)<sup>✗</sup> of the statutes is amended to read:

4           74.35 (2m) EXCLUSIVE PROCEDURE. A claim that property is exempt, other than  
5 a claim that property is exempt under s. 70.11 (21)<sup>✓</sup>(a) or (27), may be made only in  
6 an action under this section. Such a claim may not be made by means of an action  
7 under s. 74.33 or an action for a declaratory judgment under s. 806.04.

8           History: 1987 a. 378; 1989 a. 104; 1991 a. 39; 1997 a. 237. <sup>✗</sup>

8           **SECTION 4.** 74.35 (5) (d) of the statutes is amended to read:

9           74.35 (5) (d) No claim may be made under this section based on the contention  
10 that the tax was unlawful because the property is exempt from taxation under s.  
11 70.11 (21)<sup>✓</sup>(a) or (27).

12           History: 1987 a. 378; 1989 a. 104; 1991 a. 39; 1997 a. 237. <sup>✗</sup>

12           **SECTION 5.** 76.025 (1) of the statutes is amended to read:

13           76.025 (1) The property taxable under s. 76.13 shall include all franchises, and  
14 all real and personal property of the company used or employed in the operation of  
15 its business, excluding property that is exempt from the property tax under s. 70.11  
16 (39) and (39m), such motor vehicles as are exempt under s. 70.112 (5) and treatment  
17 plant and pollution abatement equipment exempt under s. 70.11 (21)<sup>✓</sup>(a). The  
18 taxable property shall include all title and interest of the company referred to in such  
19 property as owner, lessee or otherwise, and in case any portion of the property is  
20 jointly used by 2 or more companies, the unit assessment shall include and cover a  
21 proportionate share of that portion of the property jointly used so that the  
22 assessments of the property of all companies having any rights, title or interest of

1 any kind or nature whatsoever in any such property jointly used shall, in the  
2 aggregate, include only one total full value of such property.

3 History: 1997 a. 35 ss. 267 to 269, 271, 272; 1999~~9~~<sup>9</sup>; 2001 a. 16.

3 **SECTION 6.** 76.81 of the statutes is amended to read:

4 **76.81 Imposition.** There is imposed a tax on the real property of, and the  
5 tangible personal property of, every telephone company, excluding property that is  
6 exempt from the property tax under s. 70.11 (39) and (39m), motor vehicles that are  
7 exempt under s. 70.112 (5), property that is used less than 50% in the operation of  
8 a telephone company, as provided under s. 70.112 (4) (b), and treatment plant and  
9 pollution abatement equipment that is exempt under s. 70.11 (21) (a)<sup>✓</sup>. Except as  
10 provided in s. 76.815, the rate for the tax imposed on each description of real property  
11 and on each item of tangible personal property is the net rate for the prior year for  
12 the tax under ch. 70 in the taxing jurisdictions where the description or item is  
13 located. The real and tangible personal property of a telephone company shall be  
14 assessed as provided under s. 70.112 (4) (b).

15 History: 1995 a. 351; 1997 a. 237; 2001 a. 16.

15 **SECTION 7.** 77.54 (26) of the statutes is amended to read:

16 **77.54 (26)** The gross receipts from the sales of and the storage, use, or other  
17 consumption of tangible personal property which becomes a component part of an  
18 industrial waste treatment facility that is exempt under s. 70.11 (21) (a)<sup>✓</sup> or that  
19 would be exempt under s. 70.11 (21) (a)<sup>✓</sup> if the property were taxable under ch. 70, or  
20 tangible personal property which becomes a component part of a waste treatment  
21 facility of this state or any agency thereof, or any political subdivision of the state or  
22 agency thereof as provided in s. 40.02 (28). The exemption includes replacement  
23 parts therefor, and also applies to chemicals and supplies used or consumed in  
24 operating a waste treatment facility and to purchases of tangible personal property

1 made by construction contractors who transfer such property to their customers in  
2 fulfillment of a real property construction activity. This exemption does not apply  
3 to tangible personal property installed in fulfillment of a written construction  
4 contract entered into, or a formal written bid made, prior to July 31, 1975.

**History:** 1971 c. 64, 154, 215, 311; 1973 c. 90, 156, 240; 1975 c. 39, 96, 102, 146, 200; 1977 c. 29; 1977 c. 83 ss. 13, 26; 1977 c. 250, 368, 418; 1979 c. 1, 34, 87, 174; 1981 c. 20; 1981 c. 79 s. 18; 1981 c. 96 s. 67; 1981 c. 264; 1981 c. 282 s. 47; 1981 c. 317; 1983 a. 27 ss. 1284d to 1284np, 2202 (38); 1983 a. 189 ss. 101, 106, 329 (5), (12), (13); 1983 a. 192, 287, 405, 426, 498, 510, 538, 544; 1985 a. 29, 149, 332; 1987 a. 27; 1987 a. 312 s. 17; 1987 a. 399; 1989 a. 31, 238, 270, 335, 359; 1991 a. 37, 39, 269, 316; 1993 a. 16, 263, 332; 1995 a. 27, 125, 225, 227; 1997 a. 27, 35, 41, 184, 237, 291; 1999 a. 9, 65, 83; 1999 a. 150 s. 672; 1999 a. 167; 2001 a. 16, 103, 109; 2003 a. 99, 128; 2005 a. 25, 74, 141, 149, 335, 366, 479; s. 13.93 (2) (c).

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

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

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

History: 1971 c. 125, 215; 1973 c. 90 ss. 387, 391g; 1973 c. 243, 82; 1975 c. 39, 224; 1977 c. 29, 418; 1979 c. 34; 1983 a. 27; 1985 a. 29, 39; 1987 a. 27; 1989 a. 31; 1993 a. 16, 307; 1995 a. 27; 1999 a. 150 s. 672; 2001 a. 16; 2001 a. 30 s. 108; 2003 a. 31, 33, 89, 320; 2005 a. 253, 254.

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

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



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

History: 1971 c. 125, 215; 1973 c. 90 ss. 387, 391g; 1973 c. 243 s. 82; 1975 c. 39, 224; 1977 c. 29, 418; 1979 c. 34; 1983 a. 27; 1985 a. 29, 39; 1987 a. 27; 1989 a. 31; 1993  
a. 16, 307; 1995 a. 27; 1999 a. 150 s. 672; 2001 a. 16; 2001 a. 30 s. 108; 2003 a. 31, 33, 89, 320; 2005 a. 253, 254.

18 **SECTION 10. Initial applicability.**

19 (1) This act first applies to the property tax assessments as of January 1, 2007. <sup>✓</sup>

20 (END)

d-note  
↓

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

LRB-2089/P1dn

JK:.....

date

Jkd

Senator Hansen:

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

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

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

LRB-2089/P1dn  
JK:jld:rs

February 27, 2007

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Joseph T. Kreye  
Legislative Attorney  
Phone: (608) 266-2263  
E-mail: [joseph.kreye@legis.wisconsin.gov](mailto:joseph.kreye@legis.wisconsin.gov)