



2009 ASSEMBLY BILL 401

August 26, 2009 – Introduced by Representatives ZIGMUNT, SOLETSKI, BENEDICT, BERCEAU, BERNARD SCHABER, DANOU, DAVIS, DEXTER, GOTTLIEB, GRIGSBY, GUNDERSON, HIXSON, HONADEL, HUEBSCH, KESTELL, LEMAHIEU, MILROY, MONTGOMERY, NELSON, NYGREN, A. OTT, RIPP, SPANBAUER, SUDER, TOWNSEND, TURNER, VAN AKKEREN, VAN ROY, WOOD, ZEPNICK, ZIEGELBAUER and ZIPPERER, cosponsored by Senators PLALE, COWLES, LEIBHAM, DARLING, HANSEN, HOLPERIN, HOPPER, KAPANKE, A. LASEE, LASSA, LAZICH, OLSEN, RISSER, SCHULTZ, SULLIVAN and TAYLOR. Referred to Committee on Energy and Utilities.

1 AN ACT *to amend* 196.378 (1) (i), 196.378 (3) (a) 1. and 196.378 (3) (c); and *to*
2 *create* 196.378 (3) (a) 1m. of the statutes; **relating to:** creation of renewable
3 resource credits by electric providers and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, an electric utility or retail electric cooperative (electric provider) is subject to certain requirements for ensuring that, in a given year, a specified percentage of the electricity that the electric provider sells to retail customers or members is derived from renewable resources. Such requirements are commonly referred to as renewable portfolio standards (RPSs). Current law also allows an electric provider to create a credit based on the amount of electricity derived from renewable resources that the electric provider provides to its customers or members in a year and that exceeds the RPS for that year. Subject to certain restrictions, an electric provider that creates a credit may use the credit in a subsequent year to help comply with an RPS, or sell the credit to another electric provider to help the buyer comply with an RPS.

This bill allows an electric provider to create an additional credit that the electric provider can use or sell like the credit allowed under current law. The bill requires the Public Service Commission (PSC) to promulgate rules that allow an electric provider to create a credit based on the electric provider's use in a year of the following resources: solar energy, including solar water heating and direct solar applications such as solar light pipe technology; geothermal energy; biomass or biogas. However, the electric provider's use of the foregoing resources is eligible for

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a credit only if both of the following are satisfied: 1) the use displaces the electric provider's use of electricity that is derived from coal, oil, nuclear power or natural gas, except for natural gas used in a fuel cell; and 2) the displacement is verifiable and measurable, as determined by the PSC. In addition, the PSC's rules must also allow an electric provider to create a credit based on a customer's or member's use of resources that satisfies the foregoing requirements.

The bill also eliminates a requirement under current law that a credit must be used in a year subsequent to the year in which the credit is created or purchased. As a result, under the bill, a credit may be used in the same year that it is created or purchased, or in a subsequent year.

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

1 **SECTION 1.** 196.378 (1) (i) of the statutes is amended to read:

2 196.378 (1) (i) "Renewable resource credit" means a credit calculated in
3 accordance with rules promulgated under sub. (3) (a) 1., 1m., and 2.

4 **SECTION 2.** 196.378 (3) (a) 1. of the statutes is amended to read:

5 196.378 (3) (a) 1. Subject to subd. 2., an electric provider that provides total
6 renewable energy to its retail electric customers or members in excess of the
7 percentages specified in sub. (2) (a) 2., or that satisfies the requirements specified in
8 rules promulgated under subd. 1m., may, in the applicable year, create a renewable
9 resource credit and sell to any other electric provider the renewable resource credit
10 or a portion of the renewable resource credit at any negotiated price. An electric
11 provider that creates or purchases a renewable resource credit or portion may use
12 the credit or portion ~~in a subsequent year~~, as provided under par. (c), to establish
13 compliance with sub. (2) (a) 2. The commission shall promulgate rules that establish
14 requirements for the creation and use of a renewable resource credit created on or
15 after January 1, 2004, including calculating the amount of a renewable resource
16 credit, and for the tracking of renewable resource credits by a regional renewable

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1 resource credit tracking system. The rules shall specify the manner for aggregating
2 or allocating credits under this subdivision or sub. (2) (b) 4. or 5.

3 **SECTION 3.** 196.378 (3) (a) 1m. of the statutes is created to read:

4 196.378 (3) (a) 1m. The commission shall promulgate rules that allow an
5 electric provider to create a renewable resource credit based on use in a year by the
6 electric provider, or a customer or member of the electric provider, of solar energy,
7 including solar water heating and direct solar applications such as solar light pipe
8 technology; geothermal energy; biomass; or biogas, but only if the use displaces the
9 electric provider's, customer's, or member's use of electricity that is derived from
10 conventional resources, and only if the displacement is verifiable and measurable,
11 as determined by the commission. The rules shall allow an electric provider to create
12 a renewable resource credit based on 100 percent of the amount of the displacement.

13 **SECTION 4.** 196.378 (3) (c) of the statutes is amended to read:

14 196.378 (3) (c) A renewable resource credit created under s. 196.378 (3) (a),
15 2003 stats., may not be used after December 31, 2011. A renewable resource credit
16 created under par. (a) 1., 1m., or 2., ~~as affected by 2005 Wisconsin Act 141~~, may not
17 be used after the 4th year after the year in which the credit is created, except the
18 commission may promulgate rules specifying a different period of time if the
19 commission determines that such period is necessary for consistency with any
20 regional renewable resource credit trading program that applies in this state.

21 **SECTION 5. Nonstatutory provisions.**

22 (1) The public service commission shall submit in proposed form the rules
23 required under section 196.378 (3) (a) 1m. of the statutes, as created by this act, to

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1 the legislative council staff under section 227.15 (1) of the statutes no later than the
2 first day of the 7th month beginning after the effective date of this subsection.

3 (END)