



2009 BILL

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1 AN ACT to renumber 16.26; to amend 103.49 (3) (ar), 109.09 (1), 111.322 (2m)

2 (c), 196.374 (4) (b), 196.378 (1) (i), 196.378 (3) (a) 1., 196.378 (3) (c), 227.01 (13)

3 (t), 946.15 (1), 946.15 (2), 946.15 (3) and 946.15 (4); and to create 16.26 (2),

4 196.374 (2) (d), 196.3745, 196.378 (3) (a) 1m. and 709.03 (form) C. 25m. of the

5 statutes; relating to: allowing ~~political subdivisions~~ and certain utilities to

6 administer investment programs for energy efficiency improvements and

7 renewable energy applications, providing an exemption from emergency rule

8 procedures, and granting rule-making authority. ✓

**Analysis by the Legislative Reference Bureau**

This bill allows the Public Service Commission (PSC) to authorize ~~a city, village, town, or county (political subdivision)~~ or an electric, natural gas, or water public utility (utility) to administer, fund, or provide administrative services for a program for investing in energy efficiency improvements and renewable resource applications at any type of premises ~~within the political subdivision of~~ served by the utility. The bill defines "energy efficiency improvement" as an improvement that reduces the usage of energy or increases the efficiency of energy usage at premises, and the bill defines "renewable resource application" as the application of specified renewable energy resources, such as, for example, solar or wind power, at premises. The bill

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allows the PSC to authorize a program only upon application by a ~~political subdivision or utility~~ and prohibits the PSC from requiring that ~~political subdivisions and utilities~~ participate in such a program. The bill requires a utility for which the PSC authorizes a program to file a tariff with the PSC that specifies the terms and conditions of utility and nonutility service provided to customers at premises where energy efficiency improvements or renewable resource applications are made under the program. A tariff has no effect until approved by the PSC.

In addition, the bill specifies that premises are not eligible for an investment under an authorized program unless an audit is performed that demonstrates that an energy efficiency improvement or renewable resource application is cost-effective, as specified in rules promulgated by the PSC. The rules may specify criteria that include comparing the cost of an improvement or application to the value of the premises. In addition, for an energy efficiency improvement, the rules may specify criteria that include the energy savings resulting from the improvement and the period of time required for the energy savings to equal the cost of the improvement. In addition, the PSC must promulgate rules requiring the performance of audit after an energy efficiency improvement or renewable resource application is made or installed. The purpose of such an audit is to verify that the improvement or application was made or installed. The bill requires the PSC to promulgate rules specifying the certification requirements that a person must satisfy to perform either type of audit.

postaudit  
audit

The bill also requires that all work involved in making or installing an energy efficiency improvement or renewable resource application under an authorized program must be performed by a contractor or subcontractor that the PSC has included on a prequalification list of approved contractors and subcontractors. The PSC may include a contractor or subcontractor on the list only if the PSC determines that the contractor or subcontractor satisfies certain requirements, including the following: 1) agrees to comply with prevailing wage and substance abuse prevention requirements that apply to certain public works projects; 2) certifies that employees are not improperly classified as independent contractors in violation of federal or state law; 3) satisfies cultural competency requirements in rules promulgated by the PSC; 4) certifies that not less than 30 percent of the total hours worked on an individual energy efficiency improvement or renewable resource application will be performed by individuals who had incomes in the prior year that do not exceed 200 percent of federal poverty guidelines and who reside in the 1st or 2nd class city where the work is performed, or, if the work is not performed in a 1st or 2nd class city in the county where the work is performed; and 5) discloses certain past disciplinary actions and violations of federal or state law. If the past disciplinary actions and violations constitute "good cause," as defined by the PSC by rule, the PSC may exclude a contractor or subcontractor from the list. In addition, the PSC must determine that a contractor or subcontractor has agreed to sponsor an apprenticeship program administered by the Department of Workforce Development. However, the bill allows work to be performed by a contractor or subcontractor who does not sponsor such a program, but only if contractors and subcontractors who sponsor such a program are not available to perform the work.

every 3 years  
e three years ✓

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*INSERT 3A*

*political subdivisions*

*cities, villages, towns, and counties*

In addition, the bill requires the PSC to make grants to political subdivisions and utilities for which the PSC authorizes programs under the bill. A political subdivision or utility must use the grants only for costs associated with an authorized program. The bill directs the PSC to make the grants from certain federal block grants that the state receives under a program administered by the federal Department of Energy under the American Recovery and Reinvestment Act of 2009. The bill also requires the PSC to allocate the federal grants in the manner required under the federal program.

*loan*

The bill also includes requirements for *utility* and *political subdivisions* to prioritize spending on a program authorized under the bill. For utility spending whose source is a grant by the PSC, the utility must give the greatest priority to energy efficiency improvements and renewable resource applications at residential premises and the least priority to energy efficiency improvements and renewable resource applications at nonresidential premises of customers with the greatest demand for utility service. For utility spending from other sources, the priorities are reversed. For political subdivisions, the bill requires them to give the greatest priority to energy efficiency improvements and renewable resource applications at residential premises and the least priority to nonresidential premises of utility customers with the greatest demand for utility services. The PSC must promulgate rules implementing the priorities and requiring utilities and political subdivisions to make annual reports regarding implementation of the priorities.

The bill also does all of the following:

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1. ~~Allows a political subdivision for which a program is authorized under the bill to make loans to residents for energy efficiency improvements and renewable resource applications, and to collect loan repayments as special charges, divide the special charges into installments, and include the special charges in tax rolls even if they are not delinquent. A political subdivision has similar collection authority under current law for loans for energy efficiency improvements and renewable resource applications.~~

2. Requires political subdivisions and utilities that receive payments from residents and customers for energy efficiency improvements and renewable resource applications under authorized programs to use the payments to invest in other improvements and applications under the programs.

3. Requires a tariff filed by a utility for which a program is authorized to include contracts between the utility and an owner of property benefited by an energy efficiency improvement or renewable resource application. The contracts must require the owner to do the following: a) inform lessees that are liable for utility service that the cost of the improvement or application will appear on the lessees' utility bills; and b) inform a purchaser of the property that the purchaser, or any other person who is liable for utility service at the property, is liable for the unpaid costs of the improvement or application, and that such costs will appear on utility bills for the property.

4. Allows a utility that participates in the program to include a separate line item on customer bills that compares certain costs of the program with energy

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savings resulting from an energy efficiency improvement or renewable resource application made under the program.

5. Prohibits a utility with an authorized program from recovering from ratepayers any bad debt related to nonutility services provided under the program.

7. 6. Requires an owner of residential property to make a disclosure about an energy efficiency improvement or renewable resource application made under an authorized program on the real estate conditions report that is required for residential property transfers.

8. 7. Requires contractors and subcontractors to apply to renew their inclusion on the prequalification list every two years, allows the PSC to conditionally approve a contractor or subcontractor for inclusion on the list, allows the PSC to revoke inclusion for "good cause," as defined in rules promulgated by the PSC, and requires the PSC to update the list on a monthly basis and make the list available to the public.

9. 8. Requires the PSC to promulgate a rule or issue an order that prohibits any work under contracts under energy efficiency and renewable resource programs administered by the PSC under current law from being performed by contractors and subcontractors who are not included on the list described above. However, the rule or order must allow performance of work by contractors and subcontractors who do not satisfy the apprenticeship requirements only if contractors and subcontractors who do satisfy the requirements are not available to perform the work.

10. 9. Requires DOA to promulgate a rule similar to the rule described above that applies to work under contracts under a federal weatherization program administered by DOA under current law.

11. 10. Prohibits a utility from counting any spending under a program authorized under the bill whose source is a RSC grant under the bill toward compliance with requirements under current law for spending a specified percentage of the utility's annual operating revenues on energy efficiency and renewable resource programs.

Finally, current law requires certain electric utilities and cooperatives to ensure that, in a given year, a specified percentage of the electricity it sells at retail is derived from renewable resources. These requirements are commonly referred to as renewable portfolio standards (RPSs). Current law also allows electric utilities and cooperatives to create credits based on the amount of electricity derived from renewable resources that is sold at retail in a year and that exceeds the RPS for the year. Subject to certain restrictions, an electric utility or cooperative may use the credit in a subsequent year to help comply with an RPS, or sell the credit to another electric utility or cooperative to help the buyer comply with an RPS. This bill requires the PSC to promulgate rules that allow an electric utility to create an additional credit that can be used or sold like the credits under current law. The PSC's rules must allow for the creation of credits that are based on the reductions in energy usage, increases in efficiency of electricity usage, and generation of renewable energy that results from an energy efficiency improvement or renewable resource application under a program authorized by the PSC under the bill, but only if the spending source for the improvement or application is not a PSC grant under the bill. The PSC's rules must include requirements for measuring the amount of such

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reductions, increases, and generation, and calculating the amount of a credit. In addition, the bill eliminates the requirement under current law that a credit must be used in a year subsequent to the the year in which it is created or purchased.

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:*

**SECTION 1.** 16.26 of the statutes is renumbered 16.26 (1).

**SECTION 2.** 16.26 (2) of the statutes is created to read:

16.26 (2) The department shall prohibit by rule the performance of any work under a contract entered into under sub. (1) by a contractor or subcontractor who is not included in the list specified in s. 196.3745 (5) (a), except that the department's rule shall allow the performance of work by a contractor or subcontractor who does not satisfy the requirement under s. 196.3745 (5) (a) 3. if no contractor or subcontractor who satisfies the requirement is available to perform the work. This subsection applies to contracts that are entered into, extended, modified, or renewed on the effective date of the department's rule.

**SECTION 3.** 103.49 (3) (ar) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

103.49 (3) (ar) In determining prevailing wage rates under par. (a) or (am), the department may not use data from projects that are subject to this section, s. 66.0903, 66.0904, 103.50, 196.3745 (5) (a) 1., or 229.8275 or 40 USC 3142 unless the department determines that there is insufficient wage data in the area to determine those prevailing wage rates, in which case the department may use data from projects that are subject to this section, s. 66.0903, 66.0904, 103.50, 196.3745 (5) (a) 1., or 229.8275 or 40 USC 3142.

**BILL****SECTION 4**

1           **SECTION 4.** <sup>✓</sup> 109.09 (1) of the statutes, as affected by 2009 Wisconsin Act 28, is  
2 amended to read:

3           109.09 (1) The department shall investigate and attempt equitably to adjust  
4 controversies between employers and employees as to alleged wage claims. The  
5 department may receive and investigate any wage claim which is filed with the  
6 department, or received by the department under s. 109.10 (4), no later than 2 years  
7 after the date the wages are due. The department may, after receiving a wage claim,  
8 investigate any wages due from the employer against whom the claim is filed to any  
9 employee during the period commencing 2 years before the date the claim is filed.  
10 The department shall enforce this chapter and ss. 66.0903, 66.0904, 103.02, 103.49,  
11 103.82, 104.12, 196.3745 (5) (a) 1., and 229.8275. In pursuance of this duty, the  
12 department may sue the employer on behalf of the employee to collect any wage claim  
13 or wage deficiency and ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions.  
14 Except for actions under s. 109.10, the department may refer such an action to the  
15 district attorney of the county in which the violation occurs for prosecution and  
16 collection and the district attorney shall commence an action in the circuit court  
17 having appropriate jurisdiction. Any number of wage claims or wage deficiencies  
18 against the same employer may be joined in a single proceeding, but the court may  
19 order separate trials or hearings. In actions that are referred to a district attorney  
20 under this subsection, any taxable costs recovered by the district attorney shall be  
21 paid into the general fund of the county in which the violation occurs and used by that  
22 county to meet its financial responsibility under s. 978.13 (2) (b) for the operation of  
23 the office of the district attorney who prosecuted the action.

24           **SECTION 5.** <sup>✓</sup> 111.322 (2m) (c) of the statutes, as affected by 2009 Wisconsin Act  
25 28, is amended to read:

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1 111.322 (2m) (c) The individual files a complaint or attempts to enforce a right  
2 under s. 66.0903, 66.0904, 103.49, 196.3745 (5) (a) 1., or 229.8275 or testifies or  
3 assists in any action or proceeding under s. 66.0903, 66.0904, 103.49, 196.3745 (5)  
4 (a) 1., or 229.8275.

5 **SECTION 6.** 196.374 (2) (d) of the statutes is created to read:

6 196.374 (2) (d) *Contractors.* The commission shall prohibit, by order or rule,  
7 the performance of any work under a contract under a program under par. (a) 1., (b)  
8 1. or 2., or (c) by a contractor or subcontractor who is not included in the list specified  
9 in s. 196.3745 (5) (a), except that the commission's order or rule shall allow the  
10 performance of work by a contractor or subcontractor who does not satisfy the  
11 requirement under s. 196.3745 (5) (a) 3. if no contractor or subcontractor who  
12 satisfies the requirement is available to perform the work. This paragraph applies  
13 to contracts that are entered into, extended, modified, or renewed on the effective  
14 date of the commission's order or rule.

15 **SECTION 7.** 196.374 (4) (b) of the statutes is amended to read:

16 196.374 (4) (b) An energy utility that provides financing under an energy  
17 efficiency program under sub. (2) (b) 1. or 2. for installation, by a customer, of energy  
18 efficiency or renewable resource processes, equipment, or appliances, or an affiliate  
19 of such a utility, may not sell to or install for the customer those processes,  
20 equipment, appliances, or related materials. The Subject to any order or rule of the  
21 commission under sub. (2) (d), the customer shall acquire the installation of the  
22 processes, equipment, appliances, or related materials from an independent  
23 contractor of the customer's choice.

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24 **SECTION 8.** 196.3745 of the statutes is created to read:

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1           **196.3745 Energy efficiency and renewable energy investment**  
2 **program. (1) DEFINITIONS.** In this section:

3           (a) "Cultural competency" means the ability to understand and act respectfully  
4 toward, in a cultural context, the beliefs, interpersonal styles, attitudes, and  
5 behaviors of persons of various cultures.

6           (b) "Energy efficiency improvement" means an improvement to any type of  
7 premises that reduces the usage of energy, or increases the efficiency of energy usage,  
8 at the premises.

INSERT 8-11

9           (c) "Improvement or application" means an energy efficiency improvement or  
10 renewable resource application.

11           (d) "Political subdivision" means a city, village, town, or county.

12           (e) "Renewable resource application" means the application of a renewable  
13 resource, as defined in s. 196.374 (1) (j), at any type of premises.

14           g (f) "Utility" means a public utility that furnishes electricity, natural gas, or  
15 water service to retail customers.

subject to s. 196.374(2)(b) dm.g

16           (2) AUTHORIZATION. ~~The commission may, upon application by a political~~  
17 ~~subdivision or utility, authorize the political subdivision or utility to administer,~~  
18 fund, or provide administrative services for a program for investing in improvements  
19 or applications for any type of premises within the political subdivision served by  
20 the utility. Participation in such a program shall be at the discretion of political  
21 subdivisions, utilities, and premises owners, and the commission may not require  
22 that a political subdivision, utility, or premises owner participate in such a program.

23           (3) TARIFFS. A utility for which a program is authorized under sub. (2) shall file  
24 a tariff specifying the terms and conditions of utility and nonutility service provided  
25 to customers at premises where improvements or applications are made under the



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1 program. A tariff filed under this subsection shall have no effect until approved by  
2 the commission. A tariff filed by a utility under this subsection shall include all of  
3 the following:

4 (a) Terms and conditions for billing customers at premises for utility and  
5 nonutility service related to improvements or applications for which investments are  
6 made.

7 (b) A contract between the utility and an owner of property benefited by an  
8 improvement or application that requires the owner to inform any property lessees  
9 who are liable for utility service that the cost of the improvement or application will  
10 appear on the lessees' utility bills.

11 (c) A contract between the utility and an owner of property benefited by an  
12 improvement or application that requires the owner to inform any purchaser of the  
13 property that the purchaser, or any other person who is liable for utility service at  
14 the property, is liable for the unpaid cost of the improvement or application and that  
15 such unpaid cost will appear on utility bills for the property.

16 (d) Any other term or condition required by the commission.

17 (4) AUDITS. (a) *Pre-audits*. A premises is not eligible for an investment for an  
18 improvement or application under a program authorized under sub. (2) unless an  
19 audit is performed that demonstrates that the improvement or application is  
20 cost-effective. The commission shall promulgate rules for determining whether an  
21 improvement or application is cost-effective. For an improvement or application, the  
22 rules may specify criteria that include comparing the cost of the improvement or  
23 application to the value of the premises benefited by the improvement or application.  
24 For an improvement, the rules may specify criteria that include the energy savings

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1 resulting from the improvement and the period of time required for the energy  
2 savings to equal the cost of the improvement.

3 (b) <sup>3</sup> ~~Post~~ *Audits*. The commission shall promulgate rules requiring the  
4 performance of an audit after an improvement or application is made or installed  
5 under a program authorized under sub. (2). The purpose of the audit shall be to verify  
6 that an improvement or application was made or installed.

7 (c) *Certifications*. The commission shall promulgate rules specifying the  
8 certification requirements that a person must satisfy in order to perform an audit  
9 required under this subsection.

10 (5) CONTRACTORS AND SUBCONTRACTORS. (a) All work involved in making or  
11 installing an improvement or application under a program authorized under sub. (2)  
12 shall be performed by a contractor or subcontractor that the commission has included  
13 on a list of prequalified contractors and subcontractors. The commission shall  
14 approve a contractor or subcontractor for inclusion on the prequalification list only  
15 if the commission determines that the contractor or subcontractor satisfies all of the  
16 following: ✓

17 1. Agrees to pay all employees working on an improvement or application for  
18 which an investment is made under the program who would be entitled to receive the  
19 prevailing wage rate under s. 66.0903 and who would not be required or permitted  
20 to work more than the prevailing hours of labor, as defined in s. 103.49 (1) (c), if the  
21 improvement or application were a project of public works under s. 66.0903, not less  
22 than the prevailing wage rate determined under s. 66.0903 (3) or (6) and not to  
23 require or permit those employees to work more than the prevailing hours of labor,  
24 except as permitted under s. 66.0903 (4) (a); to keep and permit inspection of records  
25 in the same manner as a contractor performing work on a project of public works that

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1 is subject to s. 66.0903 is required to keep and permit inspection of records under s.  
2 66.0903 (10); and otherwise to comply with s. 66.0903 in the same manner as a  
3 contractor performing work on a project of public works that is subject to s. 66.0903  
4 is required to comply with s. 66.0903.

5 2. Agrees not to permit an employee working on an improvement or application  
6 for which an investment is made under the program to use, possess, attempt to  
7 possess, distribute, deliver, or be under the influence of a drug, as defined in s.  
8 103.503 (1) (d), or use or be under the influence of alcohol, while performing that  
9 work, to have in place a written program for the prevention of substance abuse  
10 among those employees in the same manner as a contractor performing work on a  
11 project of public works that is subject to s. 66.0903 is required to have in place such  
12 a written program under s. 103.503 (3), and otherwise to comply with s. 103.503 in  
13 the same manner as a contractor performing work on a project of public works that  
14 is subject to s. 66.0903 is required to comply with s. 103.503.

15 3. Except as provided in par. (b), agrees, if the contractor or subcontractor  
16 employs employees in trades that are apprenticeable under subch. I of ch. 106, to  
17 sponsor an apprenticeship training program that is approved by the department of  
18 workforce development for each of those trades and to employ in each of those trades  
19 the maximum ratio of apprentices to journeymen that are permitted under  
20 standards adopted, recognized, or approved by that department.

21 4. Provides the commission a detailed statement regarding related business  
22 entities if, at any time in the 3 years prior to inclusion on the prequalification list,  
23 the contractor or subcontractor has controlled or has been controlled by another  
24 corporation, partnership, or other business entity operating in the construction  
25 industry.

**BILL**

**SECTION 8**

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1           5. Certifies to the commission that the contractor or subcontractor understands  
2 that, in performing work under the program, the contractor or subcontractor will be  
3 required to use as subcontractors only those entities that are also included on the  
4 prequalification list.✓

5           6. Certifies to the commission that employees are not improperly classified as  
6 independent contractors in violation of federal or state law.

7           7. Discloses to the commission whether in the 3 years prior to inclusion on the  
8 prequalification list the contractor or subcontractor has had any type of business,  
9 contracting, or trade license, certification, or registration revoked or suspended;  
10 been debarred by any federal state, or local government agency; defaulted on any  
11 project; committed a willful violation of federal or state safety law as determined by  
12 a final decision of a court or government agency authority; or been found by a final  
13 decision of a court or government agency to be in violation of any other law relating  
14 to its contracting business, including wage and hour laws, prevailing wage laws,  
15 environmental laws, antitrust laws, or tax laws, where the penalty for such violation  
16 resulted in the imposition of a fine, back pay damages, or any other type of penalty,  
17 in an amount of more than \$10,000.

18           8. Satisfies cultural competency requirements established in rules  
19 promulgated by the commission.

20           9. Certifies to the commission that not less than 30 percent of the total hours  
21 of work performed by the contractor or subcontractor on an individual improvement  
22 or application will be performed by individuals who, if the work is performed in a 1st  
23 or 2nd class city, reside in the 1st or 2nd class city, or, if the work is not performed  
24 in a 1st or 2nd class city, reside in the county in which the work is performed, and  
25 whose annual income during the year prior to performance of the work did not exceed

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✓  
(INSERT 13-3)

1 200 percent of the poverty level under the federal poverty income guidelines of the  
2 federal Department of Health and Human Services under 42 USC 9902 (2). The  
3 commission shall promulgate rules for making certifications under this subdivision.

4 10. Certifies to the commission that an application for inclusion on the  
5 prequalification list has been executed by a principal or person employed by the  
6 applicant who has sufficient knowledge to address all matters in the application,  
7 including an attestation stating, under the penalty of perjury, that all information  
8 submitted is true, complete, and accurate.

9 (b) The commission may include on the prequalification list under par. (a) a  
10 contractor or subcontractor who does not satisfy the requirement under par. (a) 3.  
11 The commission shall promulgate rules allowing a contractor or subcontractor who  
12 does not satisfy the requirement to perform work on an improvement or application  
13 for which an investment is made under a program authorized under sub. (2), only if  
14 no contractor or subcontractor who satisfies the requirement is available to perform  
15 the work. ✓

✓  
(INSERT 13-3)

16 (c) Based on good cause shown by the disclosures required under par. (a) 7., the  
17 commission may disapprove a contractor or subcontractor for inclusion in the  
18 prequalification list under par. (a). The commission shall promulgate rules defining  
19 "good cause" for purposes of this paragraph.

20 (d) A contractor or subcontractor shall report to the commission any material  
21 change to its business or operations that are relevant to the commission's approval  
22 to include the contractor or subcontractor in the prequalification list under par. (a).  
23 A contractor or subcontractor shall make a report required under this paragraph no  
24 later than 15 days after obtaining knowledge of the material change. If a contractor  
25 or subcontractor violates this paragraph, the commission may revoke the

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1 contractor's or subcontractor's inclusion in the prequalification list for a period of no  
2 more than 3 years.

3 (e) Except for conditional approvals under par. (f), a contractor's or  
4 subcontractor's inclusion in the prequalification list under par. (a) is valid for 2 years,  
5 unless the commission revokes the inclusion under par. (d). The commission shall  
6 promulgate rules for a contractor or subcontractor to apply every 2 years for the  
7 commission to renew an approval for inclusion in the prequalification list.

8 (f) The commission may conditionally approve a contractor or subcontractor for  
9 inclusion in the prequalification list under par. (a) for a period not exceeding 2 years.  
10 The commission shall set forth in writing any conditions of an approval made under  
11 this paragraph.

12 (g) Prior to disapproving a contractor or subcontractor for inclusion in the  
13 prequalification list under par. (a), the commission shall provide the contractor or  
14 subcontractor with notice and opportunity to be heard.

15 (h) The commission shall make the prequalification list under par. (a) available  
16 to the public. The prequalification list shall show the name, address, identification  
17 number assigned by the commission, and approval renewal date for each contractor  
18 or subcontractor. The commission shall update the prequalification list on a monthly  
19 basis and make the updated lists available to the public.

20 (i) The commission shall periodically review the qualifications and  
21 performance of contractors and subcontractors included in the prequalification list  
22 under par. (a). For good cause shown, the commission may, after notice and  
23 opportunity to be heard, revoke a contractor's or subcontractor's inclusion on the  
24 prequalification list. The commission shall promulgate rules defining "good cause"  
25 for purposes of this paragraph.

**BILL**

1           (6) UTILITIES. (a) A utility for which the commission authorizes a program  
2 under sub. (2) and approves a tariff under sub. (3) may include a separate line item  
3 on bills of a customer at premises benefited by an improvement or application made  
4 or installed under the program that compares the costs of the program borne by the  
5 customer with the energy savings resulting from the improvement or application.  
6 Notwithstanding s. 218.04, a utility need not obtain a license as a collection agency  
7 for this billing practice.

8           (b) Any costs that <sup>an energy</sup> utility incurs to administer, fund, or provide administrative  
9 services for an investment made in accordance with a tariff approved under sub. (3)  
10 ~~and for which the utility receives a grant under sub. (8) (b)~~ shall be in addition to  
11 the amounts the commission requires the energy utility to spend under s. 196.374  
12 (3) (b) 2. ✓

13           (c) A utility shall use any payments received for improvements and  
14 applications from customers pursuant to a program authorized under sub. (2) to  
15 invest in other improvements and applications under the program.

16           (d) 1. A utility for which a program is authorized under sub. (2) shall prioritize  
17 the utility's spending on the program in the following manner:

18           a. If the source of the spending is a grant under sub. (8) (b), the utility shall give  
19 the greatest priority to improvements and applications at residential premises and  
20 the least priority to improvements and applications at nonresidential premises of  
21 customers with the greatest demand for service provided by the utility.

22           b. If the source of the spending is not a grant under sub. (8) (b), the utility shall  
23 give the greatest priority to improvements and applications at nonresidential  
24 premises of customers with the greatest demand for service provided by the utility  
25 and the least priority to improvements and applications at residential premises.

**BILL**

**SECTION 8**

*of political subdivision loans*

1           2. The commission shall promulgate rules implementing the requirements of  
2           subd. 1. and requiring utilities to make annual reports to the commission regarding  
3           their implementation of the requirements.

4           (e) A utility may not recover from ratepayers any bad debt related to nonutility  
5           services provided under a tariff approved under sub. (3).

6           (7) POLITICAL SUBDIVISIONS. (a) ~~A political subdivision for which a program is~~  
7           ~~authorized under sub. (2) shall make loans to residents of the political subdivision~~  
8           ~~for improvements or applications. A political subdivision that makes such a loan~~  
9           ~~may collect the loan repayment in the same manner as loans under s. 66.0627 (8).~~

10          A political subdivision shall use any ~~(loan)~~ <sup>political subdivision</sup> repayments to make additional loans ~~for~~  
11          ~~other improvements or applications.~~

12          (b) A political subdivision ~~for which a program is authorized under sub. (2)~~ <sup>political subdivision loans</sup> shall  
13          prioritize spending on ~~the program~~ in a manner that gives the greatest priority to  
14          improvements and applications at residential premises and the least priority to  
15          improvements and applications at nonresidential premises of utility customers with  
16          the greatest demand for service provided by utilities. The commission shall  
17          promulgate rules implementing the requirements of this paragraph and requiring  
18          political subdivisions to make annual reports to the commission regarding their  
19          implementation of the requirements. ✓

20          (8) GRANTS. (a) In this subsection, "block grant program" means the the energy  
21          efficiency and conservation block grant program under P.L. 111-5.

22          (b) Notwithstanding s. 16.54 (2) (a), the commission shall administer all  
23          moneys received by the state under the block grant program for the purpose of  
24          making grants to political subdivisions) and <sup>to</sup> (utilities for which programs are  
25          authorized under sub. (2). ✓ The commission shall allocate the moneys received under

*that make political subdivision loans*



**BILL***political subdivision/utility or*

1 the block grant program in the manner required under the block grant program. A  
2 political subdivision or utility may use a grant only for costs associated with a  
3 program authorized under sub. (2).<sup>✓</sup>

4 **SECTION 9.** 196.378 (1) (i) of the statutes is amended to read:

5 196.378 (1) (i) "Renewable resource credit" means a credit calculated in  
6 accordance with rules promulgated under sub. (3) (a) 1. and, 1m., or 2.

7 **SECTION 10.** 196.378 (3) (a) 1. of the statutes is amended to read:

8 196.378 (3) (a) 1. Subject to subd. 2., an electric provider that provides total  
9 renewable energy to its retail electric customers or members in excess of the  
10 percentages specified in sub. (2) (a) 2., or that satisfies the requirements specified in  
11 rules promulgated under subd. 1m., may, in the applicable year, create a renewable  
12 resource credit and sell to any other electric provider the renewable resource credit  
13 or a portion of the renewable resource credit at any negotiated price. An electric  
14 provider that creates or purchases a renewable resource credit or portion may use  
15 the credit or portion ~~in a subsequent year~~, as provided under par. (c), to establish  
16 compliance with sub. (2) (a) 2. The commission shall promulgate rules that establish  
17 requirements for the creation and use of a renewable resource credit created on or  
18 after January 1, 2004, including calculating the amount of a renewable resource  
19 credit, and for the tracking of renewable resource credits by a regional renewable  
20 resource credit tracking system. The rules shall specify the manner for aggregating  
21 or allocating credits under this subdivision or sub. (2) (b) 4. or 5.

22 **SECTION 11.** 196.378 (3) (a) 1m. of the statutes is created to read:

23 196.378 (3) (a) 1m. The commission shall promulgate rules that allow an  
24 electric utility to create renewable resource credits based on the reduction in  
25 electricity usage, increase in the efficiency of electricity usage, and generation of

**BILL****SECTION 11**

1 renewable energy that results in a year from an improvement or application, as  
2 defined in s. 196.3745 (1) (c), under a program of the electric utility that is authorized  
3 under s. 196.3745 (2), but only if the utility's spending source for the improvement  
4 or application is not a grant under s. 196.3745 (8) (b). The rules shall include  
5 requirements for measuring the amount of such a reduction, increase, and  
6 generation and calculating the amount of a renewable resource credit.

7 **SECTION 12.** 196.378 (3) (c) of the statutes is amended to read:

8 196.378 (3) (c) A renewable resource credit created under s. 196.378 (3) (a),  
9 2003 stats., may not be used after December 31, 2011. A renewable resource credit  
10 created under par. (a) 1., 1m., or 2., ~~as affected by 2005 Wisconsin Act 141~~, may not  
11 be used after the 4th year after the year in which the credit is created, except the  
12 commission may promulgate rules specifying a different period of time if the  
13 commission determines that such period is necessary for consistency with any  
14 regional renewable resource credit trading program that applies in this state.

15 **SECTION 13.** 227.01 (13) (t) of the statutes, as affected by 2009 Wisconsin Act  
16 28, is amended to read:

17 227.01 (13) (t) Ascertains and determines prevailing wage rates under ss.  
18 66.0903, 66.0904, 103.49, 103.50, 196.3745 (5) (a) 1., and 229.8275, except that any  
19 action or inaction which ascertains and determines prevailing wage rates under ss.  
20 66.0903, 66.0904, 103.49, 103.50, 196.3745 (5) (a) 1., and 229.8275 is subject to  
21 judicial review under s. 227.40.

22 **SECTION 14.** 709.03 (form) C. 25m. of the statutes is created to read:

23 709.03 (form)

IN SEAT  
18-6

**BILL**

1 C.25m. I am aware that an energy efficiency improve- .... . ....  
2 ment or renewable resource application has  
3 been made or installed to the property under  
4 a program authorized under s. 196.3745 and  
5 that utility bills for the property will include  
6 unpaid costs of the improvement or applica-  
7 tion.

8 **SECTION 15.** ✓ 946.15 (1) of the statutes, as affected by 2009 Wisconsin Act 28,  
9 is amended to read:

10 946.15 (1) Any employer, or any agent or employee of an employer, who induces  
11 any person who seeks to be or is employed pursuant to a public contract as defined  
12 in s. 66.0901 (1) (c) or who seeks to be or is employed on a project on which a prevailing  
13 wage rate determination has been issued by the department of workforce  
14 development under s. 66.0903 (3), 66.0904 (4), 103.49 (3), 103.50 (3), 196.3745 (5) (a)  
15 1., or 229.8275 (3) or by a local governmental unit, as defined in s. 66.0903 (1) (d),  
16 under s. 66.0903 (6) or 66.0904 (6) to give up, waive, or return any part of the  
17 compensation to which that person is entitled under his or her contract of  
18 employment or under the prevailing wage rate determination issued by the  
19 department or local governmental unit, or who reduces the hourly basic rate of pay  
20 normally paid to an employee for work on a project on which a prevailing wage rate  
21 determination has not been issued under s. 66.0903 (3) or (6), 66.0904 (4) or (6),  
22 103.49 (3), 103.50 (3), 196.3745 (5) (a) 1., or 229.8275 (3) during a week in which the  
23 employee works both on a project on which a prevailing wage rate determination has  
24 been issued and on a project on which a prevailing wage rate determination has not  
25 been issued, is guilty of a Class I felony.

**BILL****SECTION 16**

1           **SECTION 16.** <sup>√</sup> 946.15 (2) of the statutes, as affected by 2009 Wisconsin Act 28,  
2 is amended to read:

3           946.15 (2) Any person employed pursuant to a public contract as defined in s.  
4 66.0901 (1) (c) or employed on a project on which a prevailing wage rate  
5 determination has been issued by the department of workforce development under  
6 s. 66.0903 (3), 66.0904 (4), 103.49 (3), 103.50 (3), 196.3745 (5) (a) 1., or 229.8275 (3)  
7 or by a local governmental unit, as defined in s. 66.0903 (1) (d), under s. 66.0903 (6)  
8 or 66.0904 (6) who gives up, waives, or returns to the employer or agent of the  
9 employer any part of the compensation to which the employee is entitled under his  
10 or her contract of employment or under the prevailing wage determination issued by  
11 the department or local governmental unit, or who gives up any part of the  
12 compensation to which he or she is normally entitled for work on a project on which  
13 a prevailing wage rate determination has not been issued under s. 66.0903 (3) or (6),  
14 66.0904 (4) or (6), 103.49 (3), 103.50 (3), 196.3745 (5) (a) 1., or 229.8275 (3) during  
15 a week in which the person works part-time on a project on which a prevailing wage  
16 rate determination has been issued and part-time on a project on which a prevailing  
17 wage rate determination has not been issued, is guilty of a Class C misdemeanor.

18           **SECTION 17.** <sup>√</sup> 946.15 (3) of the statutes, as affected by 2009 Wisconsin Act 28,  
19 is amended to read:

20           946.15 (3) Any employer or labor organization, or any agent or employee of an  
21 employer or labor organization, who induces any person who seeks to be or is  
22 employed on a project on which a prevailing wage rate determination has been issued  
23 by the department of workforce development under s. 66.0903 (3), 66.0904 (4), 103.49  
24 (3), 103.50 (3), 196.3745 (5) (a) 1., or 229.8275 (3) or by a local governmental unit, as  
25 defined in s. 66.0903 (1) (d), under s. 66.0903 (6) or 66.0904 (6) to permit any part of

**BILL**

1 the wages to which that person is entitled under the prevailing wage rate  
2 determination issued by the department or local governmental unit to be deducted  
3 from the person's pay is guilty of a Class I felony, unless the deduction would be  
4 permitted under 29 CFR 3.5 or 3.6 from a person who is working on a project that is  
5 subject to 40 USC 3142.

6 **SECTION 18.** 946.15 (4) of the statutes, as affected by 2009 Wisconsin Act 28,  
7 is amended to read:

8 946.15 (4) Any person employed on a project on which a prevailing wage rate  
9 determination has been issued by the department of workforce development under  
10 s. 66.0903 (3), 66.0904 (4), 103.49 (3), 103.50 (3), 196.3745 (5) (a) 1., or 229.8275 (3)  
11 or by a local governmental unit, as defined in s. 66.0903 (1) (d), under s. 66.0903 (6)  
12 or 66.0904 (6) who permits any part of the wages to which that person is entitled  
13 under the prevailing wage rate determination issued by the department or local  
14 governmental unit to be deducted from his or her pay is guilty of a Class C  
15 misdemeanor, unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from  
16 a person who is working on a project that is subject to 40 USC 3142.

17 **SECTION 19. Nonstatutory provisions.**

18 (1) By the first day of the 4th month beginning after the effective date of this  
19 subsection, the public service commission shall, using the procedure under section  
20 227.24 of the statutes, promulgate the rules required under section 196.3745 (4) (a),  
21 (b), and (c), (5) (a) 8. and 9., (b), (c), (e), and (i), (6) (d) 2., and (7) (b) of the statutes,  
22 as created by this act, for the period before the effective date of the permanent rules  
23 promulgated under section 196.3745 (4) (a), (b), and (c), (5) (a) 8. and 9., (b), (c), (e),  
24 and (i), (6) (d) 2. and (7) (b) of the statutes, as created by this act, but not to exceed  
25 the period authorized under section 227.24 (1) (c) and (2) of the statutes.

**BILL****SECTION 19**

1 Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the public  
2 service commission is not required to provide evidence that promulgating a rule  
3 under this subsection as an emergency rule is necessary for the preservation of the  
4 public peace, health, safety, or welfare and is not required to provide a finding of  
5 emergency for a rule promulgated under this subsection.

6 (2) If the public service commission determines to promulgate rules instead of  
7 issuing an order under section 196.374 (2) (d) of the statutes, as created by this act,  
8 then, by the first day of the 4th month beginning after the effective date of this  
9 subsection, the public service commission shall, using the procedure under section  
10 227.24 of the statutes, promulgate rules under section 196.374 (2) (d) of the statutes,  
11 as created by this act, for the period before the effective date of the permanent rules  
12 promulgated under section 196.374 (2) (d) of the statutes, as created by this act, but  
13 not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes.  
14 Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the public  
15 service commission is not required to provide evidence that promulgating a rule  
16 under this subsection as an emergency rule is necessary for the preservation of the  
17 public peace, health, safety, or welfare and is not required to provide a finding of  
18 emergency for a rule promulgated under this subsection.

19 (3) By the first day of the 4th month beginning after the effective date of this  
20 subsection, the department of administration shall, using the procedure under  
21 section 227.24 of the statutes, promulgate the rules required under section 16.26 (2)  
22 of the statutes, as created by this act, for the period before the effective date of the  
23 permanent rules promulgated under section 16.26 (2) of the statutes, as created by  
24 this act, but not to exceed the period authorized under section 227.24 (1) (c) and (2)  
25 of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes,

**BILL**

1 the department of administration is not required to provide evidence that  
2 promulgating a rule under this subsection as an emergency rule is necessary for the  
3 preservation of the public peace, health, safety, or welfare and is not required to  
4 provide a finding of emergency for a rule promulgated under this subsection.

5 **SECTION 20. Initial applicability.**

6 ~~§~~ <sup>2</sup> The treatment of section 709.03 (form) C. 25m. of the statutes first applies  
7 to original real estate condition reports that are furnished on the effective date of this  
8 subsection.

9 (END)

INSEAT 23-6





ratepayers the amounts spent on the program at a rate of return equal to the utility's overall rate of return authorized by the PSC.

**INSERT 5-10:**

**SECTION 1.** 66.0627 (8) of the statutes, as created by 2009 Wisconsin Act 11, is amended to read:

66.0627 (8) ~~A~~ Subject to s. 196.3745, a political subdivision may make a loan to a resident of the political subdivision for making or installing an energy efficiency improvement or a renewable resource application to the resident's residential property premises. If a political subdivision makes such a loan, the political subdivision may collect the loan repayment as a special charge under this section. Notwithstanding the provisions of sub. (4), a special charge imposed under this subsection may be collected in installments and may be included in the current or next tax roll for collection and settlement under ch. 74 even if the special charge is not delinquent.

History: 1999 a. 150; 2007 a. 4, 184; 2009 a. 11.

**INSERT 7-4:**

**SECTION 2.** 196.374 (2) (b) 2m. of the statutes is created to read:

196.374 (2) (b) 2m. The commission may authorize an energy utility to administer, fund, or provide administrative services for a program described in s. 196.3745 (2) if the commission finds that the program is cost-effective.

**INSERT 7-23:**

**SECTION 3.** 196.374 (5) (a) of the statutes is renumbered 196.374 (5) (a) 1.

**SECTION 4.** 196.374 (5) (a) 2. of the statutes is created to read:

196.374 (5) (a) 2. The commission shall ensure in rate-making orders that an energy utility recovers from its ratepayers the amounts the energy utility spends for a program authorized under sub. (2) (b) 2m. and that an energy utility is allowed to

1 earn a rate of return on such amounts that is equal to the energy utility's overall rate  
2 of return authorized by the commission.✓

3 **SECTION 5.** ✓ 196.374 (5) (b) 1. of the statutes is amended to read:

4 196.374 (5) (b) 1. Except as provided in sub. (2) (c) and par. (bm) 2., if the  
5 commission has determined that a customer of an energy utility is a large energy  
6 customer under 2005 Wisconsin Act 141, section 102 (8) (b), then, each month, the  
7 energy utility shall collect from the customer, for recovery of amounts under par. (a)  
8 1.✓, the amount determined by the commission under 2005 Wisconsin Act 141, section  
9 102 (8) (c).✓

10 History: 1983 a. 27; 1999 a. 9; 2001 a. 30; ✓ 2005 a. 141; 2007 a. 17, 20.

10 **SECTION 6.** ✓ 196.374 (5) (b) 2. of the statutes is amended to read:

11 196.374 (5) (b) 2. A customer of an energy utility that the commission has not  
12 determined is a large energy customer under 2005 Wisconsin Act 141, section 102 (8)  
13 (b), may petition the commission for a determination that the customer is a large  
14 energy customer. The commission shall determine that a petitioner is a large energy  
15 customer if the petitioner satisfies the definition of large energy customer for any  
16 month in the 12 months preceding the date of the petition. If the commission makes  
17 such a determination, the commission shall also determine the amount that the  
18 energy utility may collect from the customer each month for recovery of the amounts  
19 under par. (a) 1.✓ The commission shall determine an amount that ensures that the  
20 amount collected from the customer is similar to the amounts collected from other  
21 customers that have a similar level of energy costs as the customer. Except as  
22 provided in sub. (2) (c) and par. (bm) 2., each month, the energy utility shall collect

1 from the customer, for recovery of amounts under par. (a) 1, the amount determined  
2 by the commission under this subdivision.✓

3 History: 1983 a. 27; 1999 a. 9; 2001 a. 30; 2005 a. 141; 2007 a. 17, 20.

3 SECTION 7. 196.374 (5) (bm) 1. of the statutes is amended to read:

4 196.374 (5) (bm) 1. The commission shall commence a proceeding ~~for~~ (for) <sup>↓</sup> <sup>↓</sup> <sup>↓</sup>  
5 creating a proposal for allocating within different classes of customers an equitable  
6 distribution of the recovery of the amounts under par. (a) 1 by all energy utilities.  
7 The purpose of the allocation is to ensure that customers of an energy utility within  
8 a particular class are treated equitably with respect to customers of other energy  
9 utilities within the same class. No later than December 31, 2008, the commission  
10 shall submit the proposal to the governor and chief clerk of each house of the  
11 legislature for distribution to the appropriate standing committees of the legislature  
12 under s. 13.172 (3).✓

NOTE: NOTE: The word in brackets is unnecessary. Corrective legislation is pending. NOTE:

13 History: 1983 a. 27; 1999 a. 9; 2001 a. 30; 2005 a. 141; 2007 a. 17, 20.

13 SECTION 8. 196.374 (5m) (a) of the statutes is amended to read:

14 196.374 (5m) (a) The commission shall ensure that, on an annual basis, each  
15 customer class of an energy utility has the opportunity to receive grants and benefits  
16 under energy efficiency programs in an amount equal to the amount that is recovered  
17 from the customer class under sub. (5) (a) 1. Biennially, the commission shall submit  
18 a report to the governor, and the chief clerk of each house of the legislature for  
19 distribution to the legislature under s. 13.172 (2), that summarizes the total amount  
20 recovered from each customer class and the total amount of grants made to, and  
21 benefits received by, each customer class.✓

22 History: 1983 a. 27; 1999 a. 9; 2001 a. 30; 2005 a. 141; 2007 a. 17, 20.

INSERT 8-11:

1 (e) "Political subdivision loan" means a loan under s. 66.0627 (8) for an  
2 improvement or application.

3 **INSERT 9-18:**

4 and a premises is not eligible for <sup>a</sup>political subdivision loan

5 **INSERT 10-5:**

6 or pursuant to a political subdivision loan

7 **INSERT 10-11:**

8 or pursuant to a political subdivision loan

9 **INSERT 10-19:**

10 , or for which the political subdivision loan is made,

11 **INSERT 11-6:**

12 or for which the political subdivision loan is made

13 **INSERT 12-2:**

14 or pursuant to the political subdivision loan

15 **INSERT 13-3:**

16 The rules shall provide that, once a contractor or subcontractor makes a certification  
17 under this subdivision, the certification is valid for 3 years.

18 **INSERT 13-13:**

19 or for which a political subdivision loan is made

20 **INSERT 18-6:**

21 With respect to reductions, the rules shall provide that a reduction equal to one  
22 kilowatt-hour results in the creation of a renewable resource credit equal to one  
23 kilowatt-hour.

24 **INSERT 23-6:**

1       ~~§~~ The treatment of sections 66.027 (8)<sup>✓</sup> and 196.3745 of the statutes first  
2       applies to loans made by political subdivisions on the effective date of this subsection.

**Duerst, Christina**

---

**From:** Selkove, Vicky  
**Sent:** Wednesday, February 03, 2010 2:19 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-2740/2 Topic: Energy efficiency loan program

Please Jacket LRB 09-2740/2 for the ASSEMBLY.

LRB

### Fiscal Estimate - 2009 Session

Original       Updated       Corrected       Supplemental

LRB Number <b>09-2740/2</b>		Introduction Number <b>AB-0755</b>	
<b>Description</b> Allowing certain utilities to administer investment programs for energy efficiency improvements and renewable energy applications, creating requirements for political subdivision loans for similar improvements and applications, providing an exemption from emergency rule procedures, and granting rule-making authority.			
<b>Fiscal Effect</b>			
<b>State:</b>			
<input type="checkbox"/> No State Fiscal Effect		<input type="checkbox"/> Increase Existing Revenues	
<input checked="" type="checkbox"/> Indeterminate		<input type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Increase Existing Appropriations		<input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget	
<input type="checkbox"/> Decrease Existing Appropriations		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/> Create New Appropriations		<input type="checkbox"/> Decrease Costs	
<b>Local:</b>			
<input checked="" type="checkbox"/> No Local Government Costs		5. Types of Local Government Units Affected	
<input type="checkbox"/> Indeterminate		<input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities	
1. <input type="checkbox"/> Increase Costs		<input type="checkbox"/> Counties <input type="checkbox"/> Others	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		<input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	
2. <input type="checkbox"/> Decrease Costs			
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory			
3. <input type="checkbox"/> Increase Revenue			
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory			
4. <input type="checkbox"/> Decrease Revenue			
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory			
<b>Fund Sources Affected</b>		<b>Affected Ch. 20 Appropriations</b>	
<input type="checkbox"/> GPR <input checked="" type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS 20.505 (1)(mb)			
<b>Agency/Prepared By</b>		<b>Authorized Signature</b>	<b>Date</b>
DOA/ Pat Meier (608) 266-5877		Martha Kerner (608) 266-1359	3/22/2010

03-23-2010  
 Rep. Mason's  
 Office Requested  
 a re-write  
 of the "original"  
 Fiscal Estimate  
 (FE still in review stage)  
 MB

**Fiscal Estimate Narratives**

**DOA 3/22/2010**

LRB Number	09-2740/2	Introduction Number	AB-0755	Estimate Type	Original
<b>Description</b> Allowing certain utilities to administer investment programs for energy efficiency improvements and renewable energy applications, creating requirements for political subdivision loans for similar improvements and applications, providing an exemption from emergency rule procedures, and granting rule-making authority.					

**Assumptions Used in Arriving at Fiscal Estimate**

AB-755 requires the Department of Administration (DOA) to issue an administrative rule requiring that any contractor or subcontractor performing work for the Weatherization program be included on a list of acceptable contractors or subcontractors compiled by the Public Service Commission unless no such contractor or subcontractor is available. This rule making effort can be absorbed within the existing workload of the Department.

AB-755 also requires the Public Service Commission to administer all funds received under the federal Energy Efficiency and Conservation Block Grant awarded under the American Recovery and Reinvestment Act of 2009. Previously, the Joint Committee on Finance at its meeting of August 4, 2009 had authorized DOA's Office of Energy Independence (OEI) to expend funds under this \$11,743,000 federal grant. A significant portion of the grant has since been sub-granted, much of it to the Department of Commerce. SB-512 would supersede this earlier authorization and require OEI to cancel existing awards. It is uncertain how much of the original federal award could be recovered or what costs the recovery would incur. However, DOA would attempt to conduct the cancellation and recovery process within the limits of existing resources.

**Long-Range Fiscal Implications**

Unknown.



### Fiscal Estimate - 2009 Session

Original     Updated     Corrected     Supplemental

LRB  
2

LRB Number <b>09-2740/2</b>		Introduction Number <b>AB-0755</b>	
<b>Description</b> Allowing certain utilities to administer investment programs for energy efficiency improvements and renewable energy applications, creating requirements for political subdivision loans for similar improvements and applications, providing an exemption from emergency rule procedures, and granting rule-making authority.			
<b>Fiscal Effect</b>			
<b>State:</b>			
<input checked="" type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenue <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs			
<b>Local:</b>			
<input checked="" type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs      3. <input type="checkbox"/> Increase Revenue      5. Types of Local Government Units Affected <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities 2. <input type="checkbox"/> Decrease Costs      4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts			
<b>Fund Sources Affected</b>		<b>Affected Ch. 20 Appropriations</b>	
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS			
<b>Agency/Prepared By</b>		<b>Authorized Signature</b>	<b>Date</b>
DOA/ Pat Meyer (608) 266-5877		Martha Kerner (608) 266-1359	3/22/2010

03-23-2010  
 Rep. Mason's Office  
 requested "Updated"  
 FE be returned and  
 "original" fiscal estimate  
 be updated.  
 JMB

Fiscal Estimate Narratives

DOA 3/22/2010

LRB Number 09-2740/2	Introduction Number AB-0755	Estimate Type Updated
<b>Description</b> Allowing certain utilities to administer investment programs for energy efficiency improvements and renewable energy applications, creating requirements for political subdivision loans for similar improvements and applications, providing an exemption from emergency rule procedures, and granting rule-making authority.		

**Assumptions Used in Arriving at Fiscal Estimate**

AB-755, as originally introduced, required the Department of Administration (DOA) to issue an administrative rule requiring that any contractor or subcontractor performing work for the weatherization program be included on a list of acceptable contractors or subcontractors compiled by the Public Service Commission unless no such contractor or subcontractor is available. This rule making effort could have been absorbed within the existing workload of the Department. The bill also required the Public Service Commission to administer all funds received under the federal Energy Efficiency and Conservation Block Grant awarded under the American Recovery and Reinvestment Act of 2009. Previously, the Joint Committee on Finance at its meeting of August 4, 2009 had authorized DOA's Office of Energy Independence (OEI) to expend funds under this \$11,743,000 federal grant. A significant portion of the grant has since been sub-granted, much of it to the Department of Commerce. AB-755 would supersede this earlier authorization and require OEI to cancel existing awards. It is uncertain how much of the original federal award could be recovered or what costs the recovery would incur. However, DOA would attempt to conduct the cancellation and recovery process within the limits of existing resources.

Assembly Substitute Amendment (ASA) 2 to AB-755 has been introduced and resolves the conflict mentioned above and directs no action on the part of DOA. Therefore, ASA 2 to AB-755 will have no fiscal impact on DOA.

**Long-Range Fiscal Implications**

None.