



2007 ASSEMBLY BILL 142

March 5, 2007 – Introduced by Representatives SCHNEIDER and POPE-ROBERTS.
Referred to Committee on Ways and Means.

1 **AN ACT** *to renumber* 70.11 (21) (a); *to amend* 74.35 (2m), 74.35 (5) (d), 76.025
2 (1), 76.81, 77.54 (26), 79.04 (1) (a) and 79.04 (2) (a); and *to create* 70.11 (21) (ab)
3 of the statutes; **relating to:** the definition of waste treatment facility for
4 property tax exemption purposes.

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 administrative rules promulgated by the Department of Revenue (DOR), “waste treatment facility” means tangible property that is built, constructed, or installed as a unit so as to be readily identifiable as directly removing, altering, or storing leftover, superfluous, discarded, or fugitive material. For purposes of administering the property tax exemption for waste treatment facilities, this bill creates a definition in the statutes for “waste treatment facility” that is the same as the definition under DOR’s administrative rules.

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:

5 **SECTION 1.** 70.11 (21) (a) of the statutes is renumbered 70.11 (21) (am).

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1 **SECTION 2.** 70.11 (21) (ab) of the statutes is created to read:

2 70.11 **(21)** (ab) In this subsection, “waste treatment facility” means tangible
3 property that is built, constructed, or installed as a unit so as to be readily
4 identifiable as directly removing, altering, or storing leftover, superfluous,
5 discarded, or fugitive material.

6 **SECTION 3.** 74.35 (2m) of the statutes is amended to read:

7 74.35 **(2m)** EXCLUSIVE PROCEDURE. A claim that property is exempt, other than
8 a claim that property is exempt under s. 70.11 (21) ~~(a)~~ or (27), may be made only in
9 an action under this section. Such a claim may not be made by means of an action
10 under s. 74.33 or an action for a declaratory judgment under s. 806.04.

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

12 74.35 **(5)** (d) No claim may be made under this section based on the contention
13 that the tax was unlawful because the property is exempt from taxation under s.
14 70.11 (21) ~~(a)~~ or (27).

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

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

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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 **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). 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 **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) or that
19 would be exempt under s. 70.11 (21) (a) 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
25 made by construction contractors who transfer such property to their customers in

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

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

5 79.04 (1) (a) An amount from the shared revenue account or, for the
6 distribution in 2003, from the appropriation under s. 20.835 (1) (t), 2003 stats.,
7 determined by multiplying by 3 mills in the case of a town, and 6 mills in the case
8 of a city or village, the first \$125,000,000 of the amount shown in the account, plus
9 leased property, of each public utility except qualified wholesale electric companies,
10 as defined in s. 76.28 (1) (gm), on December 31 of the preceding year for “production
11 plant, exclusive of land,” “general structures,” and “substations,” in the case of light,
12 heat and power companies, electric cooperatives or municipal electric companies, for
13 all property within a municipality in accordance with the system of accounts
14 established by the public service commission or rural electrification administration,
15 less depreciation thereon as determined by the department of revenue and less the
16 value of treatment plant and pollution abatement equipment, as defined under s.
17 70.11 (21) (a), as determined by the department of revenue plus an amount from the
18 shared revenue account or, for the distribution in 2003, from the appropriation under
19 s. 20.835 (1) (t), 2003 stats., determined by multiplying by 3 mills in the case of a
20 town, and 6 mills in the case of a city or village, of the first \$125,000,000 of the total
21 original cost of production plant, general structures, and substations less
22 depreciation, land and approved waste treatment facilities of each qualified
23 wholesale electric company, as defined in s. 76.28 (1) (gm), as reported to the
24 department of revenue of all property within the municipality. The total of amounts,
25 as depreciated, from the accounts of all public utilities for the same production plant

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1 is also limited to not more than \$125,000,000. The amount distributable to a
2 municipality under this subsection and sub. (6) in any year shall not exceed \$300
3 times the population of the municipality.

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

5 79.04 (2) (a) Annually, except for production plants that begin operation after
6 December 31, 2003, or begin operation as a repowered production plant after
7 December 31, 2003, the department of administration, upon certification by the
8 department of revenue, shall distribute from the shared revenue account or, for the
9 distribution in 2003, from the appropriation under s. 20.835 (1) (t), 2003 stats., to any
10 county having within its boundaries a production plant, general structure, or
11 substation, used by a light, heat or power company assessed under s. 76.28 (2) or
12 76.29 (2), except property described in s. 66.0813 unless the production plant or
13 substation is owned or operated by a local governmental unit that is located outside
14 of the municipality in which the production plant or substation is located, or by an
15 electric cooperative assessed under ss. 76.07 and 76.48, respectively, or by a
16 municipal electric company under s. 66.0825 an amount determined by multiplying
17 by 6 mills in the case of property in a town and by 3 mills in the case of property in
18 a city or village the first \$125,000,000 of the amount shown in the account, plus
19 leased property, of each public utility except qualified wholesale electric companies,
20 as defined in s. 76.28 (1) (gm), on December 31 of the preceding year for “production
21 plant, exclusive of land,” “general structures,” and “substations,” in the case of light,
22 heat and power companies, electric cooperatives or municipal electric companies, for
23 all property within the municipality in accordance with the system of accounts
24 established by the public service commission or rural electrification administration,
25 less depreciation thereon as determined by the department of revenue and less the

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

SECTION 10. Initial applicability.

(1) This act first applies to property tax assessments as of January 1, 2007.

(END)