



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #673

Shared Revenue in 2004 and Beyond -- Utility Aid (Shared Revenue and Tax Relief -- Direct Aid Payments)

[LFB 2003-05 Budget Summary: Page 381, #2]

CURRENT LAW

During the 2001 legislative session, the budget adjustment bill (2001 Wisconsin Act 109) made a number of modifications to the shared revenue program. After the 2003 distribution, the statutory language authorizing the shared revenue program will remain in the state statutes, but shared revenue payments will be suspended, except for payments under the utility aid component. Utility aid will be the only draw against the shared revenue appropriation in 2004 and beyond. Beginning in 2004, general purpose local governments will receive state assistance payments under the county and municipal aid program.

Under the public utility aid distribution, municipalities and counties receive aid equal to the net book value of qualifying utility property multiplied by a rate of nine mills. Qualifying utility property is defined to include production plants, substations, and general structures, such as office buildings. If the qualifying property is in a city or village, the municipality's payment is calculated at a rate of six mills, and the county receives a payment based on three mills. If the qualifying property is located in a town, the town's payment is calculated at a rate of three mills, and the county receives a payment based on six mills. The value of a utility's property at any single site is limited to \$125 million, and payments are further limited to no more than \$300 per capita for municipalities and \$100 per capita for counties. The values used in these calculations are limited to no less than the values used to calculate aid payments in 1991, for property that has remained in operation since that time. Each municipality and county is guaranteed \$75,000 if a production plant with a capacity of 200 megawatts or more is located within its borders. The \$75,000 payment for municipalities is phased-out at the rate of 10% per year when plants are decommissioned (this phase-out is not extended to counties, so their aid on decommissioned plants drops to \$0). The phase-out is terminated when the plant is returned to the local property

tax roll. By definition, decommissioned property cannot be operating utility property and, therefore, is subject to local taxation. As a result, the phase-out of aid on decommissioned property is not likely to occur. Finally, each municipality and county where spent nuclear fuel is stored receives an annual payment of \$50,000. Utility aid payments are administered by the Department of Revenue (DOR).

GOVERNOR

Estimate the GPR sum sufficient appropriation for the shared revenue program in 2004-05 at \$31,435,600 for the distribution of 2004 utility aid.

DISCUSSION POINTS

1. The Assembly version of the 2001-03 budget adjustment bill included a proposal to replace the utility aid distribution formula with an allocation intended to provide greater incentives for local governments to allow new electric generating facilities to be sited within their boundaries. The proposal was in response to the recognition that the demand for electricity in Wisconsin has increased at an average rate of about 2% annually. Although almost 1,500 megawatts of generating capacity have been constructed in Wisconsin during the last five years, the state possesses an aging inventory of electric production plants, and no "base load" plants have been constructed since 1985. Base load plants produce the majority of the state's electricity and are designed to run almost constantly because they have relatively low per unit generating costs. The construction of additional production plants would result in a more reliable energy supply, which has been cited as an essential ingredient for the state's continued economic growth.

2. The Assembly proposal would have replaced the current utility aid distribution with one based on the total electric generating capacity in each municipality. In addition, the proposal would have provided additional aid payments (incentive aid) for municipalities and counties where some new production plants are located, revised the payments for local governments containing decommissioned plants, and increased the per capita payment limits that are authorized under current law. Finally, the proposal would have continued the aid payments for substations and for nuclear storage facilities, as authorized under current law.

3. Basic utility aid payments would have been computed on a municipal-by municipal basis according to the total electric generating capacity of the light, heat, and power production plants located there. Payments would also have been made for construction-work-in-progress on new production plants, based on the percentage of construction that has been completed by December 31 of the year preceding the year of the aid payment. Aid would have been based on the following payment schedule:

Megawatt Rating of
Electric Generating Facilities

Combined Municipal and County
Basic Utility Aid

Over 3,000	\$2,000,000
2,400 to 3,000	1,500,000
1,800 to 2,400	1,300,000
1,300 to 1,800	1,150,000
800 to 1,300	1,000,000
400 to 800	800,000
300 to 400	700,000
200 to 300	500,000
100 to 200	300,000
50 to 100	150,000
25 to 50	50,000
10 to 25	25,000
Under 10	10,000

4. If a generating facility is located in more than municipality or county, such as a hydroelectric generating facility, the capacity associated with the facility would have been divided between the two municipalities, or counties, based on the net book value of the plant. A similar payment division would have occurred when a facility is related to a generating facility, but does not produce electricity and is located in a municipality other than where the generating facility is located. The payment for the generating facility would have been divided when the related facility would be included in the production plant account, based on the Public Service Commission's chart of accounts, and has a net book value in excess of \$800,000. An example of a related facility that might qualify for this payment division is an ash disposal site.

5. The proposal would have maintained the current payment structure for substations, whereby payments equal the substation's net book value multiplied by nine mills. The combined payments attributable to each municipality under the basic aid allocation and the substation distribution would have been divided between the municipality and its overlying county. Two-thirds of each municipal payment would have been apportioned to the county where the municipality is located if the municipality is a town, and one-third of each municipal payment would have been apportioned to the county where the municipality is located if the municipality is a city or village. The municipality would have retained the balance of the payment. This was modeled after the municipal-county payment division that occurs under current law.

6. The Assembly proposal would have increased the current per capita payment limits of \$300 per person for municipalities and \$100 per person for counties over a four-year period. The municipal payment limits would have increased to \$450 in the first year, \$650 in the second year, \$950 in the third year, and \$1,200 in the fourth year. For counties, the limit would have increased to \$225 in the first year, \$325 in the second year, \$475 in the third year, and \$600 in the fourth year.

7. Incentive aid payments would have been created for municipalities and counties where certain new production plants are located, but no incentive aid would have been paid until the qualifying plant begins operating. The newly-constructed plant would have had to meet three criteria for a payment to occur. First, the plant must be built on, or adjacent to, the site of an existing or decommissioned plant or on, or adjacent to, the site of a brownfield, as defined under current law. Second, the plant must be operating at a total production capacity of at least 50 megawatts. Third, the plant cannot be nuclear-powered. Both municipalities and counties containing a qualifying plant would have received payments under the following payment schedule. If the plant is a coal-fired plant, the municipality would have received incentive aid under the same payment schedule based on the plant's megawatt rating. A municipality could have received incentive aid both under the brownfield provision and under the coal-fired provision, thereby doubling its incentive aid. Counties would have been eligible for incentive aid only under the brownfield provision.

<u>Megawatt Rating of Qualifying Generating Facility</u>	<u>Municipal and County Brownfield Incentive Aid</u>	<u>Municipal Incentive Aid for Coal-Fired Plants</u>
Over 600	\$420,000	\$420,000
400 to 600	300,000	300,000
200 to 400	180,000	180,000
100 to 200	90,000	90,000
50 to 100	45,000	45,000

8. Under current law, municipalities containing production plants with a capacity of at least 200 megawatts are guaranteed a minimum utility aid payment of \$75,000. When the plant is decommissioned, the minimum payment is phased-out by reducing the payment amount by \$7,500 annually. The payments are discontinued when the decommissioned property becomes subject to property taxes. Under this procedure, payments on decommissioned plants would almost never occur because decommissioned property would no longer be classified as utility operating property, and nonoperating property of utilities is generally subject to property taxation. The Assembly proposal would have modified these procedures by phasing out payments over six years and reducing any payment amounts by the property taxes on the decommissioned property. Payments would have equaled the aid payment on the property in the last year that the property was exempt from property taxes. The final year payment would have been reduced by 0% in the initial year, 20% in the second year, 40% in the third year, 60% in the fourth year, and 80% in the fifth year. No payments would have been made in the sixth year. The Assembly proposal would have extended payments to counties, which are not eligible for decommissioning payments under current law. Unlike current law where decommissioned plants must have a capacity of at least 200 megawatts, aid on decommissioned plants would have been extended without regards to the production plant's capacity.

9. It may not be possible for DOR to assemble the data base necessary to administer the preceding changes to the utility aid distribution for payments in 2004. If the changes were delayed until 2005, any uncertainty with regard to the proposal's fiscal impact would occur outside the 2003-05 biennium.

10. For 2003 (2003-04), the Department of Revenue has estimated that \$30.2 million in utility aid would be paid, if the current law distribution formula was operational. Under current law provisions, aid payments of \$31.4 million are estimated for 2004 (2004-05). A capacity-based alternative like the one adopted last session by the Assembly would result in payments estimated at \$31.9 million in 2004.

11. For purposes of comparing the two alternative distribution formulas, aid payments were estimated for the 2005-07 and 2007-09 biennia. This required a number of assumptions. Historic trends were used to make assumptions regarding depreciation, improvements to existing properties and facilities, and the construction of substations. In addition, assumptions were made regarding the construction of new production plants based on data provided by the Public Service Commission and conversations with industry representatives. In response, this analysis assumes that an additional 2,900 megawatts of generating capacity will be added to the state's production plant inventory by 2007, and an additional 500 megawatts of capacity will be under construction at that time. Based on these assumptions, total payment amounts are estimated to be comparable under the two distribution formulas, and the estimated payment totals are displayed in the following table.

**Estimated State Utility Aid Under Two Distribution Alternatives
(In Millions)**

<u>Year</u>	<u>Fiscal Year</u>	<u>Current Law</u>	<u>Capacity-Based Alternative</u>
2005	2005-06	\$32.8	\$31.3
2006	2006-07	34.8	33.9
2007	2007-08	36.1	35.4
2008	2008-09	37.5	38.6

12. Total payments are estimated to be slightly less under the capacity-based alternative in 2005 through 2007. However, in 2008, payments under the capacity-based alternative would be an estimated \$1.1 million higher. This corresponds with the first year of full payments for the proposed We Energies production plant in the City of Oak Creek. This illustrates that the payment estimates are sensitive to the type and location of newly-constructed production plants.

ALTERNATIVES

1. Modify the public utility aid distribution as follows:

Basic Aid Distribution Formula. Sunset the current law formula for distributing utility aid on the basis of net book value and rates of three mills or six mills, effective following payments for 2004. Create a distributional formula, effective with payments for 2005, based on the capacity of light, heat, and power production plants as follows: (a) extend payments to municipalities and counties that contain, within their boundaries, light, heat, and power production plants used by a light, heat, and power company, a qualified wholesale electric company, a wholesale merchant plant, or an electric cooperative subject to state license fees imposed under Chapter 76 of the statutes or by municipal electric companies subject to ad valorem payments in lieu of taxes under s. 66.0825(16) of the statutes; (b) exclude property of municipal light, heat, and power companies from the payments unless the production plant is located outside the municipality owning the plant; (c) specify that payments be calculated on the basis of total megawatt capacity of eligible production plants within each municipality, as reported by the plant's owner or operator, but distribute two-thirds of each municipal payment to the county where the municipality is located if the municipality is a town and distribute one-third of each municipal payment to the county where the municipality is located if the municipality is a city or village; (d) set municipal payments equal to \$2,000,000 if capacity is over 3,000 megawatts, \$1,500,000 if capacity is over 2,400, but not more than 3,000, megawatts, \$1,300,000 if capacity is over 1,800, but not more than 2,400, megawatts, \$1,150,000 if capacity is over 1,300, but not more than 1,800, megawatts, \$1,000,000 if capacity is over 800, but not more than 1,300, megawatts, \$800,000 if capacity is over 400, but not more than 800, megawatts, \$700,000 if capacity is over 300, but not more than 400, megawatts, \$500,000 if capacity is over 200, but not more than 300, megawatts, \$300,000 if capacity is over 100, but not more than 200, megawatts, \$150,000 if capacity is over 50, but not more than 100, megawatts, \$50,000 if capacity is over 25, but not more than 50, megawatts, \$25,000 if capacity is over 10, but not more than 25, megawatts, and \$10,000 if capacity is 10 megawatts, or less; (e) specify that if a production plant is located in more than one municipality or county, the capacity associated with that plant shall be attributed to the municipality where the majority of the plant is located; however, provide that the resulting municipal payment be divided between the two municipalities based on the net book value of the plant as of December 31, 2003, or as of the date the property becomes operational, whichever is later; and finally, specify that only that portion of a municipal payment that is attributable to the plant that is located in two municipalities be divided, if the municipality to which the capacity is attributable contains more than one production plant; (f) specify that the payment division under (e) shall apply to property that is classified as production plant, under the system of accounts established by the PSC, but which is not an electric generating facility if the net book value of the related facility exceeds \$800,000; (g) maintain the current payment structure for substations calculated by multiplying the net book value of the substation by either three or six mills; (h) eliminate aid payments on general structures; (i) retain the per capita payment limits authorized under current law, but increase the limits to \$450 for municipalities and \$225 for counties in 2004, to \$650 for municipalities and \$325 for counties in 2005, to \$950 for municipalities and \$475 for counties in 2006, and to \$1,200 for municipalities and \$600 for counties in 2007; (j) retain the distribution for nuclear storage facilities, as authorized under current law; (k)

specify that in the case of a facility under construction, the megawatts associated with the facility shall be prorated for inclusion in the municipality's capacity based on the percentage of construction completed on December 31 of the prior year, as determined by DOR; and (L) specify that the combined municipal and county payment cannot be less than the amount that would be paid for the plant in 2004 under the current law distribution formula, provided the plant remains in operation.

Incentive Aid. Beginning in 2005, extend payments to municipalities and counties where production plants are sited that begin operation on, or after, January 1, 2004, provided the plant meets three conditions: (a) the plant must be built on, or adjacent to, the site of an existing or decommissioned plant or on, or adjacent to, the site of a brownfield, as defined under current law; (b) the plant must be operating at a total production capacity of at least 50 megawatts; and (c) the plant cannot be nuclear-powered. Set payments equal to the following amounts based on the total megawatt capacity of the new plant: (a) if the plant has a capacity over 600 megawatts, \$420,000 each for counties and municipalities; (b) if the plant has a capacity over 400 megawatts, but not more than 600 megawatts, \$300,000 each for counties and municipalities; (c) if the plant has a capacity of more than 200 megawatts, but not more than 400 megawatts, \$180,000 each for counties and municipalities; (d) if the plant has a capacity over 100 megawatts, but not more than 200 megawatts, \$90,000 each for counties and municipalities; and (e) if the plant has a capacity of at least 50 megawatts, but not more than 100 megawatts, \$45,000 each for counties and municipalities. Specify that payments would not be made for construction work-in-progress, as under the current law distribution formula. Double the preceding municipal amounts if the production plant is coal-powered.

Aid on Decommissioned Plants. Modify current law provisions with respect to utility aid for decommissioned plants to provide a payment on production plants that were previously exempt from general property taxes because the company owning the plant was subject to state utility taxes. Extend payments for decommissioned plants to municipalities and counties and remove the minimum capacity threshold. Set each municipality's and county's payment equal to a percentage of the aid that was paid for the plant in the last year the plant was exempt from general property taxes less the amount of property taxes paid on the plant for municipal or county purposes in the current year. Set the percentages at 100% in the first year the plant is taxable, 80% in the second year the plant is taxable, 60% in the third year the plant is taxable, 40% in the fourth year the plant is taxable, and 20% in the fifth year the plant is taxable. Eliminate the payments for a decommissioned plant in the sixth year the plant is taxable.

2. Maintain current law.

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