



Legislative Fiscal Bureau

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June 17, 2003

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Senate Substitute Amendment 1 to Senate Bill 180/Assembly Bill 378: State Aid Payments to Municipalities and Counties Containing Qualifying Utility Property

Senate Bill 180, relating to state aid payments under the shared revenue program to municipalities and counties containing qualifying public utility property, was introduced on May 23, 2003, and referred to the Senate Committee on Energy and Utilities. On May 27, 2003, the Committee held a public hearing on the proposal, and on June 2, 2003, the Committee adopted Senate Substitute Amendment 1 and recommended the bill for passage, by a vote of four to one. On June 4, 2003, the bill was referred to the Joint Committee on Finance. The following analysis pertains to SSA 1 to SB 180.

Assembly Bill 378 was introduced on June 3, 2003, and is identical to SSA 1 to SB 180. It was referred to the Assembly Committee on Energy and Utilities, which held a public hearing on June 5, 2003. The Committee recommended the adoption of two amendments to the bill, Assembly Amendments 1 and 5, on June 12, 2003. The Committee recommended the bill for passage, as amended, by a vote of nine to two.

Current Law

Under current law provisions, 2004 utility aid payments will be made from a sum sufficient appropriation to municipalities and counties equal to the net book value of qualifying utility property multiplied by a rate of nine mills. Qualifying property includes production plants, substations, and general structures of light, heat, and power companies, qualified wholesale electric companies, electric cooperatives, merchant plants, and municipal electric companies. Also included is the property of municipally-owned electric utilities, but only that property that is located outside the boundaries of the municipality that owns and operates the utility. 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. Also, payments to individual municipalities are limited to \$300 per capita, and payments to counties are limited to \$100 per capita. 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 a 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.

Summary of Senate Substitute Amendment 1 to Senate Bill 180

Senate Substitute Amendment 1 to Senate Bill 180 (SSA 1) would combine current law provisions for substations, general structures, and existing production plants with a capacity-based aid structure, including incentive aid, for newly-constructed production plants. These provisions would take effect with payments in 2005. In addition, modifications would be made to the public Service Commission's rate-making authority with regard to mitigation payments. Changes would be made in six areas.

Aid for Certain Ash Disposal Sites. The bill would double the net book value of ash disposal facilities owned and operated by electric cooperatives for purposes of calculating utility aid payments for municipalities and counties.

Construction Work-In-Progress. The bill would discontinue aid payments on the value of production plants, general structures, and substations that are under construction, thereby limiting the payments to the value of facilities that are in operation.

Aid on Decommissioned Production Plants. The bill would sunset current law provisions relating to utility aid on decommissioned production plants, and, instead, create 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. Payments would be extended to municipalities and counties containing decommissioned production plants. Municipality and county payments would equal 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. The percentages would decline from 100% in the first year the plant is taxable, to 80% in the second year the plant is taxable, to 60% in the third year the plant is taxable, to 40% in the fourth year the plant is taxable, and to 20% in the fifth year the plant is taxable.

Capacity Aid for Newly-Constructed or Repowered Plants. Under the bill, newly-constructed or repowered production plants that begin operation after December 31, 2003 would be excluded from utility aid payments authorized under current law provisions. Beginning in 2005, the bill would extend utility aid to municipalities and counties that contain newly-constructed or repowered production plants based on the production plant's generating capacity. To be eligible, a plant must have a capacity of at least one megawatt and begin operation after December 31, 2003.

The bill would define repowering as: (a) replacing the boiler on an existing fossil fuel steam unit with a combustion turbine and heat recovery steam generator and reusing the steam turbine and heat rejection system; (b) adding a heat recovery steam generator to a simple cycle combustion turbine; or (c) demolishing or abandoning an existing power generation unit and replacing it with a new power generation unit at the same site. Power generation unit would be defined as a complete set of electric generating equipment, as defined under current law, that collectively is sufficient to generate electric power.

Payments for municipalities and counties containing the qualifying production plants would be calculated at the combined rate of \$2,000 per megawatt of the plant's name-plate capacity. The county would receive either two-thirds of the resulting payment if the production plant is located in a town or one-third of the resulting payment if the production plant is located in a city or village. The balance of the payment would be distributed to the municipality where the production plant is located. The per capita payment limits authorized under current law would be extended to the combined payments under the current three/six mill formula and under the proposed capacity formula.

Incentive Aid. The bill would create a new aid program called incentive aid for municipalities and counties that contain qualifying production plants that are newly-constructed or repowered and begin operating after December 31, 2003. Incentive aid payments could be made under three separate provisions. Municipalities and counties would each receive aid equal to \$600 per megawatt of name-plate capacity if they contain a production plant that is not nuclear-powered and has a name-plate capacity of at least one megawatt and if the production plant is built: (a) on the site of, or on a site adjacent to, an existing or decommissioned production plant; (b) on a site purchased by a public utility before January 1, 1980, that was identified in an advance plan as a proposed site for a production plant; or (c) on a brownfield, as defined under current law, or a site adjacent to a brownfield.

Under the bill, municipalities and counties would each receive aid equal to \$600 per megawatt of name-plate capacity if the production plant has a name-plate capacity of at least 50 megawatts and is a baseload generating facility. A baseload generating facility would be defined as an electric generating facility that has a capacity factor that is greater than 60%. Capacity factor would be defined as the actual annual output of an electric generating facility expressed as a percentage of the facility's potential output. If an electric generating facility has not been in operation for one year, capacity factor would be defined as the projected annual output of an electric generating facility expressed as a percentage of the facility's potential output.

Municipalities and counties each would receive aid equal to \$1,000 per megawatt of name-plate capacity if the production plant has a name-plate capacity of at least one megawatt and derives energy from an alternative energy resource. If a production plant fires an alternative energy resource together with another fuel, the number of megawatts eligible for a payment would be determined by multiplying the number of megawatts that represents the plant's capacity by a percentage equal to the energy content of the alternative energy resource divided by the total energy content of the alternate energy resource and the other fuel, all as determined in the year prior to the payment. Alternative energy resource would be defined as a renewable resource or garbage, both as defined under current law, or as nonvegetation-based industrial, commercial, or household waste.

The bill would exclude incentive payments from the per capita payment limits authorized under current law and modified under the bill.

Mitigation Payments. The bill would prohibit an electric public utility from recovering in its rates the cost of mitigation payments paid by the utility or the cost of mitigation payments paid by the owner or operator of an electric generating facility that the owner or operator recovers from the utility by selling electricity to the utility, by leasing the facility to the utility, or by any agreement between the owner or operator of the electric generating facility and the public utility. Mitigation payment would be defined as an amount approved by the Public Service Commission that is an unrestricted or recurring monetary payment to a local unit of government in which an electric generating facility is located to mitigate the impact of the electric generating facility on the local unit of government. Mitigation payment would not include payments made or in-kind contributions for restricted purposes to directly address health or safety impacts of the electric generating facility on the local unit of government. The bill would exclude from the prohibition any mitigation payment agreement received by the Commission before June 1, 2003. The Commission would be directed to approve any such agreement and would be prohibited from modifying an agreement received before that date, so long as the Commission finds the agreement to be reasonable.

Assembly Amendments. Assembly Amendment 1 to AB 378 would make three changes to the bill. First, it would create a new appropriation, called the "public utility distribution account" from which payments for decommissioning aid, capacity aid, and incentive aid would be made. Second, it would add a fourth condition under which the definition for "repowering" would apply. Under the amendment, replacing steam generating equipment at a combustion-based renewable facility to increase efficiency or capacity would qualify as repowering, so long as the facility remains a combustion-based renewable facility after the equipment is replaced. Third, the amendment would change the date for the Public Service Commission's receipt of a mitigation agreement from June 1, 2003, to June 10, 2003. Assembly Amendment 5 to AB 378 would make two changes. First, it would provide the Public Service Commission with the authority to determine if a production plant meets the 60% capacity standard related to baseload incentive aid. Second, it would replace the definition of capacity factor to mean the anticipated actual annual output of an electric generating facility expressed as a percentage of the facility's potential output as indicated in a certificate of public convenience and necessity or a certificate of authority. Also, the Public Service Commission would be authorized to review the capacity factor of a facility at any time. Under the original bill, the capacity determination would be based on the facility's actual

annual output. However, the facility's projected output would be used if the facility has not been in operation for one year.

Fiscal Analysis

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). For purposes of comparing the current law and proposed 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:

<u>Plant Description</u>	<u>Generating Capacity (MW)</u>	<u>In Operation</u>
Calpine Rock River	600	2004
Existing Plants Added Capacity	100	2004
Wind Farm	50	2004
We Energies Port Washington	500	2005
MG&E/U.W. Walnut Street	150	2005
Wind Farm	50	2005
Calpine Kaukauna or Fond du Lac	600	2006
Mid-American Power Stoneman	200	2006
We Energies Oak Creek	600	2007
Wind Farm	50	2007
We Energies Port Washington, Unit 2	500	Under Construction

The speculative nature of the preceding assumptions should be noted. The public utility industry is capital-intensive and therefore sensitive to national economic conditions. In addition, the transmission of electricity across state borders makes the Wisconsin utility industry sensitive to events in other states. The preceding plants were chosen to illustrate the fiscal implications of the two proposals, and this analysis is not intended to be a forecast of actual aid payments.

Based on the preceding assumptions, current law utility aid payments are estimated to increase from \$32.8 million in 2005 (2005-06) to \$37.5 million in 2008 (2008-09). Under SB 180, utility aid payments are estimated at \$31.2 million for 2005 and would increase to an estimated \$38.0 million for 2008. The following table compares the two sets of aid estimates.

**Estimated State Utility Aid Under Current Law and SB 180
(In Millions)**

<u>Year</u>	<u>Fiscal Year</u>	<u>Current Law</u>	<u>SB 180</u>
2005	2005-06	\$32.8	\$31.2
2006	2006-07	34.8	33.1
2007	2007-08	36.1	34.3
2008	2008-09	37.5	38.0

Under the current law estimates, the ten new production plants would add an estimated \$2,181 million in aidable value between 2005 and 2008. An additional \$180 million in new construction is attributed to substations and general structures. However, the value added by new construction is partially offset by depreciation and the demolition of the production plant at Port Washington. Because the Port Washington plant is heavily depreciated, its demolition will result in a value reduction of only \$11 million. The combined changes would produce an increase of \$674 million in aidable values, which would increase from an estimated \$3,462 million in 2004 to \$4,136 million in 2008. The current law aid estimates were calculated by multiplying the estimated values by nine mills and adding \$300,000 in nuclear storage payments.

Aid under SB 180 was estimated by making adjustments to the aid totals under current law provisions. Those adjustments include reducing payments by \$1.0 million to \$1.2 million annually to reflect the elimination of aid on construction-work-in-progress and increasing payments by about \$100,000 to reflect aid on the decommissioned production plant in Port Washington. The most significant adjustment was for newly-constructed production plants. Payments for those facilities are estimated to increase under current law provisions from \$2.9 million in 2005, to \$4.9 million in 2006, to \$6.3 million in 2007, and to \$7.8 million in 2008. Under the bill, these payments would be replaced with capacity aid and incentive aid payments of \$2.1 million in 2005, \$4.3 million in 2006, \$5.6 million in 2007, and \$9.2 million in 2008. Lower payments result under SB 180 in the first three years because alternative energy resource generating units (the three wind farms) and cogeneration facilities (MG&E/U.W. Walnut Street) have a high construction cost relative to their generating capacity. For larger production plants that result in payments both under capacity and incentive aid, aid payments on new plants would generally be higher than the payments under current law.

The elimination of aid for construction-work-in-progress and the lower payments on production plants in the initial three years cause payments under the bill to be lower than payments under current law by an estimated \$1.6 million in 2005, \$1.7 million in 2006, and \$1.8 million in 2007. In 2008, total estimated aid under SB 180 are slightly higher (\$0.5 million) than under current law. That coincides with the year after the new production plant in Oak Creek is scheduled to begin operating.

The construction of the Oak Creek production plant, which is estimated to be on-line in 2007, has a noteworthy impact on both the current law estimate and the SB 180 estimate.

Currently, there is approximately \$120 million in aidable value in the City of Oak Creek, which generates aid of \$1,080,000 for the City and Milwaukee County combined. As a result, only about \$5 million in additional value would be realized under the current law formula, and combined aid for Oak Creek and Milwaukee County would increase by about \$45,000. Under SB 180, the plant would qualify for capacity aid of \$2,000 per megawatt and incentive aid of \$2,400 per megawatt. Based on an estimated capacity of 600 megawatts, total payments on the plant would total \$2,640,000. The plant would qualify for two types of incentive aid since it would be adjacent to an existing plant and since it is designed to be a baseload plant.

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