



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3589/5
MDK:med:jf

2011 BILL

1 **AN ACT to create** 196.01 (5) (b) 7. and 196.374 (2) (a) 2. f. of the statutes; **relating**
2 **to:** exempting from public utility regulation certain persons who generate
3 electricity or heat and requiring statewide energy efficiency and renewable
4 resource programs to include certain financial incentives.

Analysis by the Legislative Reference Bureau

Under current law, unless an exemption applies, a person that provides electricity to the public satisfies the definition of public utility. As a public utility, the person's rates for electricity, as well as other aspects of the person's business, are subject to regulation by the Public Service Commission (PSC).

This bill creates an exemption from the definition of public utility for a person that owns, operates, manages, or controls equipment that generates electricity or heat from a renewable resource or specified uses, if the equipment is located on premises owned or occupied by members of the public. However, the exemption applies only if the person provides or sells all of the electricity or heat generated by the equipment either at retail to the members of the public owning or occupying the premises at which the equipment is located or to a public utility or retail electric cooperative. As noted above, the bill's exemption applies if the equipment generates electricity or heat from a renewable resource or specified use. The following are renewable resources as defined in the bill: 1) certain renewable fuel cells; 2) tidal or wave action; 3) solar thermal electric or photovoltaic energy; 4) wind power; 5) geothermal technology; 6) biomass; 7) synthetic gas created by the plasma gasification of waste; 8) certain densified fuel pellets made from waste material other

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than garbage; 9) fuel produced by pyrolysis of organic or waste material; and 10) certain hydroelectric facilities. In addition to the foregoing renewable resources, the bill specifies that equipment that uses any of the following to generate electricity or heat is eligible for the exemption: 1) solar energy, including solar water heating and direct solar applications such as solar light pipe technology; 2) geothermal energy; and 3) biogas.

If a person satisfies the above requirements, and the person does not engage in any other activity that would result in the person satisfying the definition of “public utility” under current law, the person is exempt from regulation as a public utility by the PSC under the bill.

Also under current law, investor-owned electric and natural gas public utilities must collectively fund and establish statewide energy efficiency and renewable resource programs. Current law defines a renewable resource program as, in part, a program for encouraging the development or use of customer applications of renewable resources. Subject to PSC approval, the public utilities must contract with one or more persons to develop and administer the statewide programs. This bill specifies that the statewide programs must include financial incentives for retail electric or natural gas customers who own or occupy premises at which equipment is located that is subject to the exemption created by the bill.

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

1 **SECTION 1.** 196.01 (5) (b) 7. of the statutes is created to read:

2 196.01 (5) (b) 7. A person that satisfies all of the following requirements:

3 a. The person owns, operates, manages, or controls equipment that generates
4 electricity or heat from a renewable resource, as defined in s. 196.378 (1) (h) 1. or 1m.,
5 or from a use described in s. 196.378 (3) (a) 1m., and that is located on premises owned
6 or occupied by members of the public.

7 b. The person provides or sells all of the electricity or heat generated by the
8 equipment specified in subd. 7. a. either at retail to the members of the public owning
9 or occupying the premises at which the equipment is located or to a public utility, as
10 defined in par. (a), or a cooperative association described in subd. 1.

