



WISCONSIN LEGISLATIVE COUNCIL

2005-06 SESSION IN REVIEW

Utilities and Energy

The Wisconsin Legislature considered many items in the 2005-06 Session, relating to utilities and energy. Because of the large number of proposals, the number summarized in the memorandum is limited. Legislative Council Act Memos provide a more thorough description of the acts described in this memorandum and are available at www.legis.state.wi.us/lc.

The 2005-06 Legislature enacted two major laws in the area of utilities and energy, one each related to energy policy and electric utilities, and a number of other laws in these areas, and the area of telecommunications. It also considered, but did not pass, legislation designed to promote the use of ethanol as a motor vehicle fuel.

ENERGY POLICY

Energy Efficiency, Renewable Resources, and Energy Policy - 2005 Wisconsin Act 141 relates to programs that promote energy efficiency and energy that is derived from renewable resources and to related state energy policies. It does not create totally new policies, but refines existing policies and generally sets higher goals for energy conservation and the generation of renewable energy. The Act is based largely upon recommendations contained in the *Final Report of the Governor's Task Force on Energy Efficiency and Renewables*, October 2004. For a detailed description of the Act, see Legislative Council Information Memorandum 2006-01, *2005 Wisconsin Act 141: Energy Efficiency, Renewable Resources, and Energy Policy*, March 30, 2006. The following are highlights of the Act.

- ***Energy Efficiency and Renewable Resource Programs*** - Previously, energy utilities funded statewide energy efficiency and renewable resource programs. Utilities remitted funds to the Department of Administration, which deposited the funds in the Utility Public Benefits Fund and used them to pay private program administrators with whom it had contracted to administer the programs. Act 141 creates a new structure for these programs under which the utilities contract collectively with program administrators to administer statewide programs under the oversight of the Public Service Commission (PSC).
- ***Renewable Portfolio Standard*** - Prior law required electric utilities and rural electric cooperatives to sell a minimum amount of electricity from renewable resources to their customers, reaching its highest level, 2.2% of all electricity sold at retail, in 2011. This policy is termed a "renewable portfolio standard" or "RPS." Act 141 creates a more

ambitious standard, requiring electric providers to increase the amount of renewable electricity they sell two percentage points above their current level by 2010 and six percentage points above their current level by 2015, with the goal that 10% of all electricity sales in Wisconsin be from renewable resources.

- ***State Energy Policy*** - The PSC is required to implement a priority list of energy sources in making all energy-related decisions and orders. Act 141 provides that the PSC is prohibited from imposing any requirement on a utility or wholesale supplier regarding energy efficiency or renewable resources, the first energy sources on the priority list, if the PSC has fulfilled all of its responsibilities in administering the state-wide energy efficiency and renewable resource programs or RPS and the applicant has fulfilled all of its responsibilities regarding the state-wide energy efficiency and renewable resource programs or is in compliance with the RPS.
- ***State Facilities and Codes*** - Act 141 includes a number of provisions designed to increase the energy efficiency of state facilities and increase the use of renewable energy at those facilities. The Act also addresses the energy efficiency code maintained by the Department of Commerce that is applicable to commercial buildings.

Ethanol Fuels - The 2005-06 Legislature considered two bills to promote ethanol as a motor vehicle fuel. 2005 Assembly Bill 15 proposed to mandate that all gasoline sold in Wisconsin contain approximately 10% ethanol, so-called E-10 fuel. 2005 Senate Bill 723 proposed incentives, rather than mandates, and focused on fuel containing 85% ethanol, known as E-85. Neither bill passed.

Low-Income Energy Assistance - In response to exceptionally high energy prices, Act 124 provides additional funding in fiscal year 2005-06 for the low-income energy assistance program, which helps low-income households meet home heating expenses. Earlier in the session, the chairs of the legislative committee concerning energy introduced 2005 Assembly Bill 806 and Senate Bill 381 to, in essence, ratify the Governor's transfer of funds from low-income weatherization programs to low-income energy assistance programs; the transfer had already been made and neither of these bills passed.

ELECTRIC UTILITIES

Rate-Making Principles - Act 7 is designed to reduce the financial risks associated with major capitol projects by electric utilities, to facilitate financing of the projects by helping ensure that investors fully recover their investment. The Act authorizes a public utility that proposes to build or purchase an electric generating facility to request that the PSC determine, in advance and by order, the underlying principles by which the PSC will treat the recovery of the capital costs of the facility in setting rates for the utility. These costs include the purchase price and any necessary modifications or improvements to the facility made at the time of purchase.

The PSC may issue such an order if it finds that the proposed principles provide a sufficient degree of certainty to the utility, investors, and ratepayers with respect to future recovery of the facility's costs and that the order is otherwise in the public interest. Once established by order, the rate-making principles are binding on the PSC. The PSC may not require a utility to accept proposed rate-making principles. If the utility rejects proposed principles, capitol cost recovery for the project would be determined in the same manner as under prior law.

Transmission and Other Utility Facilities - The 2005-06 Legislature enacted two laws that remove potential impediments to the construction of electric transmission lines. Under prior law, public utilities could condemn private land for the construction of utility facilities, but not public land. Act 24, while not using that term, essentially authorizes an electric utility to condemn the land of a county, city, village, town, public board, or commission for the construction of an electric transmission line. The Act creates an arbitration process for cases in which the land owner and the utility do not agree on the value of the property.

In general, no person may harvest (defined as cutting, removing, or transporting) any raw forest products from any land for which taxes are delinquent. Further, no person may harvest raw forest products until 14 days after providing notice to the clerk of the county in which the forest products are located of the person's intent to harvest those products. Act 423 provides that these requirements do not apply to the harvesting of raw forest products for the purpose of establishing or maintaining a railroad track or structure, a pipeline, or a utility right-of-way.

Three other acts from the 2005-06 Session affect utility facilities. Act 29 relates to how the PSC determines whether an application for approval to construct an electric generating facility is complete. Act 169 prohibits discharging a firearm in the direction of various electric and telecommunications transmission facilities. Act 337 relates to mitigation payments, received by the City of Oak Creek, mitigation payments are payments that the owner of a major utility facility (such as an electric generating station or high-voltage transmission line) pays to the municipality in which the facility is located to mitigate the impacts of the facility on the municipality.

TELECOMMUNICATIONS

The 2005-06 Legislature enacted two laws in the telecommunications area, one related to promoting the deployment of broadband services, the other related to protecting the privacy of telecommunications customers' records.

Act 479 creates two tax incentives for investments in infrastructure for delivery of broadband services, an exemption from the sales and use taxes for the purchase of such equipment and an income tax credit based on the sales and use tax exemption. The incentives apply only to investments that the Department of Commerce certifies are likely to increase the availability of broadband service in areas of the state served by not more than one broadband service provider.

Act 261 makes it a crime to obtain, solicit another person to obtain, or sell a telephone record that pertains to another person without the person's consent. A violation of this prohibition is a Class E, G, or I felony, depending on the number of records involved. The Act makes exceptions for law enforcement agencies and for disclosures made to the National Center for Missing and Exploited Children.

Also relating to privacy in telecommunications, the 2005-06 Legislature considered but did not pass legislation to strengthen current statutes regulating telephone solicitations.

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