

2001 ASSEMBLY BILL 754

January 28, 2002 – Introduced by Representatives GRONEMUS, PETROWSKI, BLACK, J. FITZGERALD, POCAN, SYKORA, HINES, BIES, LIPPERT, CARPENTER, BERCEAU and FREESE, cosponsored by Senators S. FITZGERALD, GEORGE and RISSER. Referred to Committee on Energy and Utilities.

1 **AN ACT** *to amend* 20.505 (4) (h); and *to create* 15.07 (1) (d), 15.105 (27), 16.956,
2 20.505 (4) (s), 25.17 (1) (dm) and 25.98 of the statutes; **relating to:** creating an
3 electric pollution board, establishing an electric pollution fund, requiring
4 electric utilities and cooperative associations to remedy certain current-flow
5 problems, imposing a surcharge on electric bills, granting rule-making
6 authority, making an appropriation, and providing penalties.

Analysis by the Legislative Reference Bureau

This bill requires electric utilities and cooperative associations to remedy problems associated with their plant or equipment that result in an objectionable flow of current at the premises of a customer or member. An objectionable flow of current is defined as a steady state of current for five seconds or more over the grounding conductor of an electric utility or cooperative association. An electric utility or cooperative association must remedy such a problem no later than one year after it is discovered. In addition, no later than January 1, 2012, an electric utility or cooperative association must remedy all such problems, except for objectionable flows of current that are discovered in 2011, which must be remedied no later than one year after discovery. An electric utility or cooperative association that fails to comply with a one-year deadline under the bill is subject to a forfeiture of not more than \$1,000 for each day over the deadline. An electric utility that fails to comply with the January 1, 2012, deadline is subject to a forfeiture of not more than \$500,000.

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The bill also creates a rebuttable presumption that an objectionable flow of current is the result of the electric utility's or cooperative association's plant or equipment, not the customer's or member's plant or equipment. Also, the bill allows a customer or member who is injured as a result of an electric utility's or cooperative association's failure to remedy such a problem to sue for treble damages.

The bill also creates an electric pollution board (board) that makes grants to reimburse electric utilities and cooperative associations that remedy problems described above. The source of funding for the grants is the electric pollution fund (fund), which is created by the bill. The fund consists of a one-twentieth of a cent per kilowatt hour surcharge that electric utilities and cooperative associations must assess on customer and member bills. The board may also make grants to customers or members, or groups of customers or members, if the board is satisfied that an electric utility or cooperative association refuses or is unable to remedy a problem and another competent person has performed the remedy. In addition, the bill prohibits the board from making any award unless the electric utility, cooperative association, or other person documents to the satisfaction of the board that remedial activities are complete. Also, the bill requires the board to promulgate rules for making the awards, and the rules must include a priority system for making awards based on the severity of the objectionable flow of current.

The board consists of the attorney general, or his or her designee, and eight other members. Two of the other members are chief executive officers of investor-owned electric utilities, or their designees, one of whom is appointed by the speaker of the assembly and the other of whom is appointed by the senate leader of the opposite party. The following other members are appointed by the governor with senate confirmation: 1) two professors or professors emeritus of electrical engineering, one of whom is from the University of Wisconsin System and the other of whom is from the Milwaukee School of Engineering; 2) a physician recommended by the Wisconsin State Medical Society; 3) a customer of an investor-owned electric utility; 4) a customer of a municipal electric utility; and 5) a member of a cooperative association recommended by the Wisconsin Federation of Cooperatives. Except for the attorney general, no member of the board may serve more than two terms.

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:

1 **SECTION 1.** 15.07 (1) (d) of the statutes is created to read:
2 15.07 (1) (d) Except as provided in s. 15.105 (27) (a) 1. and 2., no member of the
3 electric pollution board may be an officer, director, or employee of an electric public

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1 utility or a cooperative association organized under ch. 185 for the purpose of
2 providing electricity to its members only.

3 **SECTION 2.** 15.105 (27) of the statutes is created to read:

4 15.105 (27) ELECTRIC POLLUTION BOARD. (a) There is created an electric
5 pollution board that is attached to the department of administration under s. 15.03.
6 The board shall consist of the attorney general, or his or her designee, and the
7 following members appointed for 4-year terms:

8 1. One chief executive officer of an investor-owned electric public utility, or his
9 or her designee, appointed by the speaker of the assembly.

10 2. One chief executive officer of an investor-owned electric public utility, or his
11 or her designee, appointed by the senate leader of the party other than the party of
12 the speaker of the assembly.

13 3. One professor or professor emeritus of electrical engineering of the
14 University of Wisconsin System.

15 4. One professor or professor emeritus of electrical engineering of the
16 Milwaukee School of Engineering.

17 5. One physician recommended by the Wisconsin State Medical Society.

18 6. One customer of an investor-owned electric public utility.

19 7. One customer of a municipally owned electric public utility.

20 8. One member of a cooperative association, organized under ch. 185 for the
21 purpose of providing electricity to its members only and recommended by the
22 Wisconsin Federation of Cooperatives.

23 (b) The members specified in par. (a) 3. to 8. shall be appointed by the governor
24 with senate confirmation.

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1 (c) No member of the electric pollution board specified in par. (a) 1. to 8. may
2 serve more than 2 terms.

3 **SECTION 3.** 16.956 of the statutes is created to read:

4 **16.956 Electric pollution program. (1) DEFINITIONS.** In this section:

5 (a) “Board” means the electric pollution board.

6 (b) “Electric cooperative” means a cooperative association organized under ch.
7 185 for the purpose of providing electric service to its members only.

8 (c) “Electric utility” means a public utility, as defined in s. 196.01 (5), that
9 produces electricity.

10 (d) “Fund” means the electric pollution fund under s. 25.98.

11 (e) “Objectionable flow of current” means a steady state of current for 5 seconds
12 or more over the grounding conductor of an electric utility or cooperative.

13 **(2) DUTY TO REMEDY.** (a) An electric utility or cooperative shall remedy any
14 problems associated with its plant or equipment that result in an objectionable flow
15 of current at the premises of a customer or member no later than one year after
16 discovery of the objectionable flow of current.

17 (b) 1. Notwithstanding par. (a), and except as provided in subd. 2., no later than
18 January 1, 2012, each electric utility and cooperative shall remedy all problems
19 associated with their plant or equipment that result in an objectionable flow of
20 current at the premises of any of the electric utility’s or cooperative’s customers or
21 members.

22 2. If an objectionable flow of current is discovered at a customer’s or member’s
23 premises in 2011, the electric utility or cooperative shall remedy all problems
24 associated with its plant and equipment that result in that objectionable flow of
25 current no later than one year after it is discovered.

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1 (c) For purposes of pars. (a) and (b), there is a rebuttable presumption that an
2 objectionable flow of current at a customer's or member's premises is the result of
3 problems associated with the electric utility's or cooperative's plant or equipment,
4 not the customer's or member's plant or equipment.

5 (d) The board shall promulgate rules establishing the standards applicable to
6 remedies under pars. (a) and (b). In promulgating the rules, the board shall consider
7 the recommendations of the Electric Power Research Institute, the standards of the
8 Institute of Electrical and Electronics Engineers, Inc., and the Information
9 Technology Industry Council.

10 (e) Any customer or member injured as a result of an electric utility's or
11 cooperative's failure to remedy a problem under par. (a) or (b) may bring a cause of
12 action for treble damages.

13 **(3) AWARDS FROM FUND.** (a) The board shall promulgate rules establishing
14 requirements and procedures for the board to make awards from the fund to
15 reimburse electric utilities and cooperatives for remedies under sub. (2) (a) and (b).
16 The rules shall also include requirements and procedures for making awards to
17 customers or members, or groups of customers or members, of electric utilities or
18 cooperatives that refuse or are unable to perform remedies under sub. (2) (a) or (b).
19 The rules shall include a priority system for making awards based on the severity
20 of the objectionable flow of current. The board may not make an award unless all of
21 the following are satisfied:

22 1. The remedy is performed by the electric utility or cooperative that provides
23 retail service to the customer or member at whose premises there is an objectionable
24 flow of current or, if the board is satisfied that that electric utility or cooperative has
25 refused or is unable to perform the remedy, by another competent person.

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1 **SECTION 5.** 20.505 (4) (h) of the statutes, as affected by 2001 Wisconsin Act 16,
2 is amended to read:

3 20.505 **(4)** (h) *Program services.* The amounts in the schedule to carry out the
4 responsibilities of divisions, commissions, and boards attached to the department of
5 administration, other than the board on aging and long-term care, the adolescent
6 pregnancy prevention and pregnancy services board, and the public records board,
7 and to carry out the responsibilities of special and executive committees. All moneys
8 received from fees which are authorized by law or administrative rule to be collected
9 by any division, board, or commission attached to the department, other than the
10 board on aging and long-term care, the adolescent pregnancy prevention and
11 pregnancy services board, the electric pollution board, and the public records board,
12 and all moneys received from fees that are authorized by law or executive order to
13 be collected by any special or executive committee shall be credited to this
14 appropriation account and used to carry out the purposes for which collected.

15 **SECTION 6.** 20.505 (4) (s) of the statutes is created to read:

16 20.505 **(4)** (s) *Electric pollution remediation awards.* From the electric
17 pollution fund, the amounts in the schedule for awards by the electric pollution board
18 under s. 16.956 (3).

19 **SECTION 7.** 25.17 (1) (dm) of the statutes is created to read:

20 25.17 **(1)** (dm) Electric pollution fund (s. 25.98);

21 **SECTION 8.** 25.98 of the statutes is created to read:

22 **25.98 Electric pollution fund.** There is established a separate nonlapsible
23 trust fund designated as the electric pollution fund, consisting of surcharges
24 collected by electric utilities and cooperative associations and paid to the electric
25 pollution board under s. 16.956 (4).

ASSEMBLY BILL 754**1 SECTION 9. Nonstatutory provisions.**

2 (1) INITIAL APPOINTMENTS TO ELECTRIC POLLUTION BOARD. Notwithstanding
3 section 15.105 (27) (a) (intro.) of the statutes, as created by this act, the following
4 initial members of the electric pollution board shall be appointed by the first day of
5 the 3rd month beginning after the effective date of this subsection for the following
6 terms:

7 (a) The members specified in section 15.105 (27) (a) 1., 3., and 6. of the statutes,
8 as created by this act, for terms expiring on May 1, 2005.

9 (b) The members specified in section 15.105 (27) (a) 2., 4., and 7. of the statutes,
10 as created by this act, for terms expiring on May 1, 2006.

11 (c) The members specified in section 15.105 (27) (a) 5. and 8. of the statutes, as
12 created by this act, for terms expiring on May 1, 2007.

13 (END)